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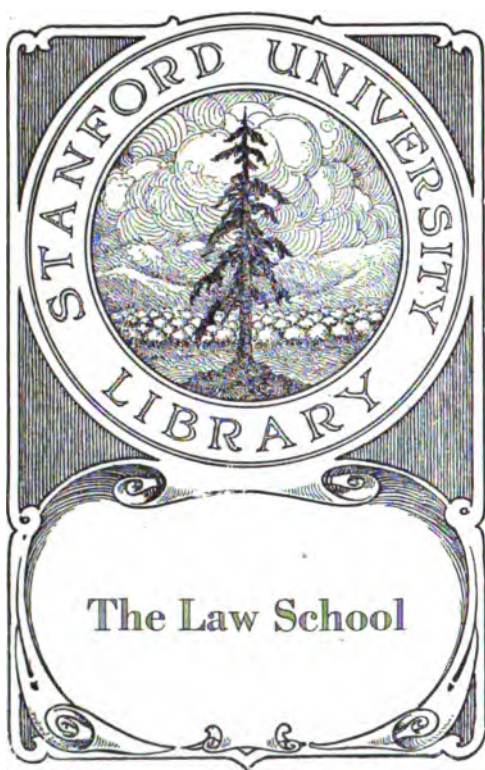
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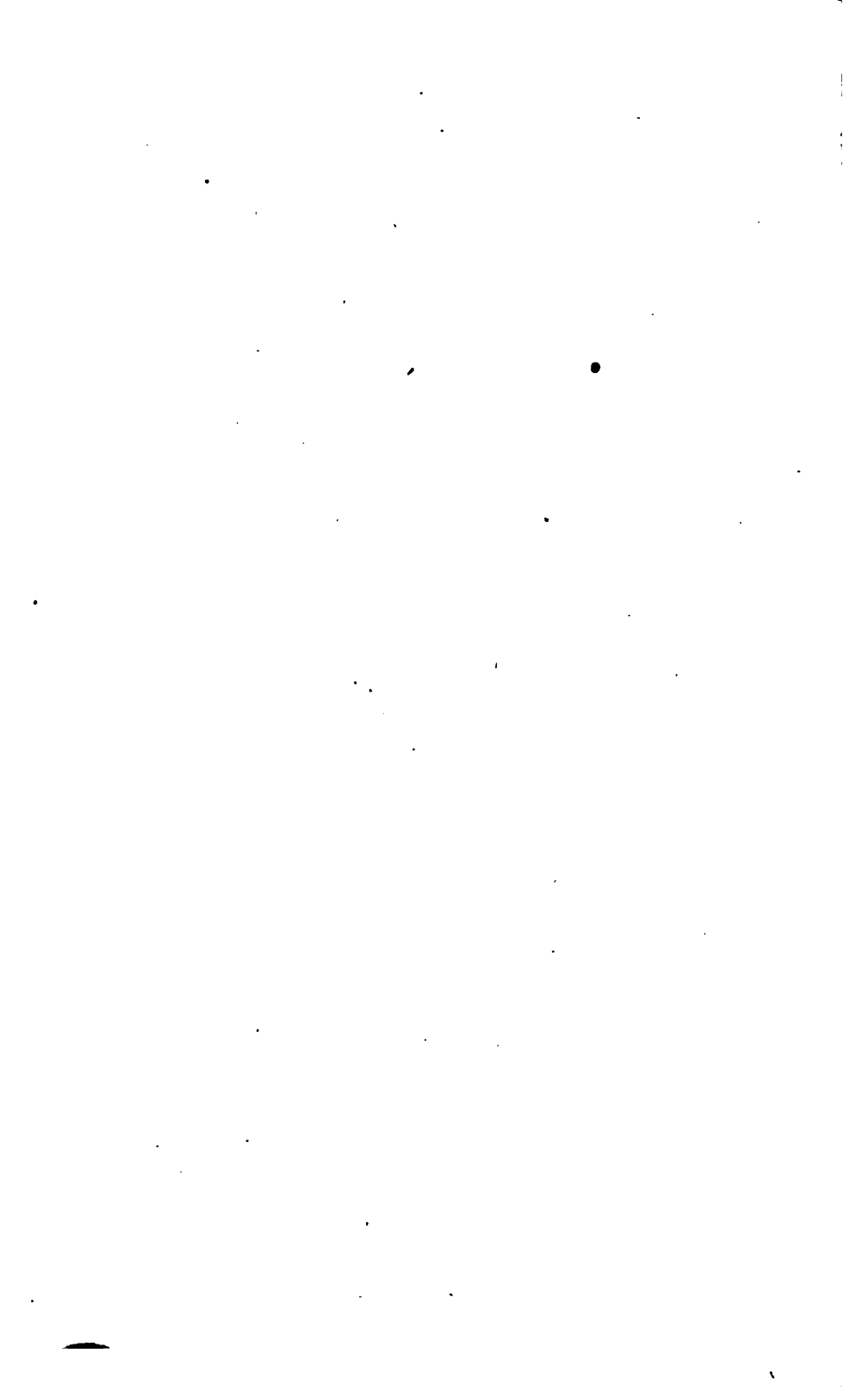
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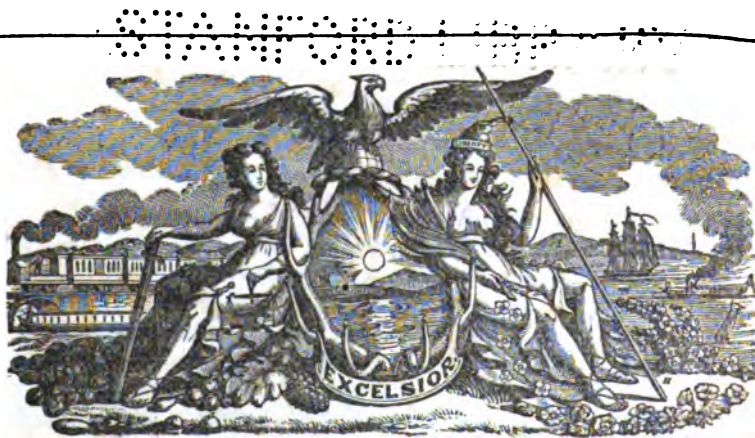
STATE OF NEW-YORK,

PASSED AT THE

SIXTY-NINTH SESSION OF THE LEGISLATURE,

BEGUN AND HELD IN THE CITY OF ALBANY,

THE SIXTH DAY OF JANUARY, 1846.



ALBANY :

PRINTED BY C. VAN BENTHUYSEN AND CO.

.....

1846.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE.

Albany, May 14, 1846.

Pursuant to the directions of the act entitled "An act relative to the publication of the Laws," passed April 12, 1843, I hereby certify that the following volume of the Laws of this State, was printed under my direction.

N. S. BENTON,
Secretary of State.

In this volume every law which received "the assent of two-thirds of the members elected to each branch of the Legislature," in pursuance of the IX. section of the sixth article of the Constitution of this State, is designated immediately under its title as having been passed by a two-third vote. See Laws of 1842, chap. 206.

WASSEL GROTTE

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LAWS

OF THE

STATE OF NEW-YORK,

PASSED AT THE SIXTY-NINTH SESSION OF THE LEGISLATURE, BEGUN AND HELD IN THE CITY OF ALBANY, THE SIXTH DAY OF JANUARY, 1846.

CHAPTER I.

AN ACT *to extend the time for the collection of taxes for the year 1845.*

Passed January 20, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. If any collector of taxes in any of the cities and towns of this state, except the city of New-York and the county of Kings, shall, within the time now provided by law, pay over all moneys by him collected, and shall, within ten days thereafter renew his bond to the satisfaction, in towns, of the supervisor of the town, or in his absence, of the town clerk, and in any city, of the majority of the supervisors of such city, to be expressed in writing on such bond, which bond shall be filed and have the effect of a collector's bond as provided by law; and shall, also, within the time aforesaid, deliver to the county treasurer of his county a certificate of the approval of such bond, signed by the officer making such approval, the time for collecting the taxes and making the returns thereof, shall be extended to the first day of March next.

§ 2. This act shall take effect immediately.

CHAP. 2.

AN ACT *authorising the court of general sessions of the peace, in and for the city and county of New-York, to extend the term of said court in certain cases.*

Passed January 20, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

may ended. § 1. Whenever the trial of a cause shall have been commenced in the court of general sessions of the peace, in and for the city and county of New-York, and the same shall not be concluded before the expiration of the term of said court, it shall be lawful for the said court to continue in session, until the conclusion of said trial, and to proceed to judgment, if they shall so deem necessary, in cases where convictions shall be had.

§ 2. This act shall take effect immediately.

CHAP. 3.

AN ACT *to confirm and legalize the drawing of the grand and petit jury of the county of Otsego.*

Passed January 26, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Drawing of jurors confirmed. § 1. The drawing of the panel of grand and petit jurors by the sheriff, clerk, and one of the judges of Otsego county, at the clerk's office in Cooperstown, on the 19th day of January 1846, for the term of the court of common pleas and general sessions of the peace, to be holden in and for said county, on the second day of February next, shall be held to be legal and valid in all respects as if notice of such drawing had been duly published in the manner prescribed by law.

§ 2. This act shall take effect immediately.

CHAP. 4.

AN ACT to authorise the circuit judge of the sixth circuit to change the times of holding his courts in said circuit.

Passed January 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The circuit judge of the sixth circuit is hereby authorized, within six weeks after the passage of this act, to alter the times now fixed and appointed for holding the circuit courts and courts of oyer and terminer in and for any or either of the counties in said circuit, to such other times as he shall deem proper. The said circuit judge is also hereby authorized, within the same time, to alter the times and places now appointed and fixed for holding the law and equity terms by said circuit judge in and for said circuit, to such other times and places as he shall deem proper.

Judge authorized to alter the times of holding courts.

§ 2. In case the said circuit judge shall so alter the time of holding any of said courts in said circuit, he shall immediately publish a notice of the time or times and places to which such change shall be made, in the manner prescribed in sections seven, eight and nine, of title four, chapter one, and part three of the Revised Statutes.

Notice to be published.

§ 3. The said circuit judge shall not, in case he shall, under the provisions of this act, make any change in the time of holding any of said courts, again change the time of holding any of said courts, until one month prior to the first day of January, in the year one thousand eight hundred and forty-eight.

Restriction.

§ 4. This act shall take effect immediately.

CHAP. 5.

AN ACT in relation to the trial of convicts in county and State Prisons.

Passed January 31, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Whenever it shall appear to the court in which an indictment is pending, and to be tried against any person for an offence committed by him, while imprisoned in any county prison, or in any one of the state prisons, on the person

Prisoners to be brought before court on habeas corpus.

of an other individual confined in such jail or state prison, that any other person confined in any county prison, or in any one of the state prisons, is an important witness in behalf of the person so indicted, such court may and are hereby authorised to grant a writ of habeas corpus for the purpose of bringing such prisoner before such court to testify upon the trial of such indictment, in behalf of the party making the application.

May be examined as witnesses.

§ 2. Every person when brought up on such writ may be examined as a witness on such trial, and shall be competent to testify thereon in behalf of the defendants or the people, notwithstanding his conviction and imprisonment.

Persons indicted may be brought up for trial.

§ 3. The court in which any indictment is pending against any person imprisoned on conviction of a crime in any county jail or states prison, for an offence committed during such imprisonment, is hereby authorized to issue a writ of habeas corpus for the purpose of bringing the individual so indicted before such court for arraignment or trial on such indictment.

§ 4. This act shall take effect immediately.

CHAP. 6.

AN ACT relative to school district number eight, in the town of Brutus.

Passed January 31, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money may be borrowed.

§ 1. It shall be lawful for the legal voters of school district number eight, in the town of Brutus, in the county of Cayuga, at any district meeting legally notified and held in said district, to authorize the trustees of said district to borrow such sum of money not exceeding the sum of two thousand dollars, as such meeting may deem proper ; or otherwise to pledge the credit of said district for such sum, for the purpose of erecting a district school house for said district, with such necessary and proper out-houses, fixtures, fences and appendages, as such meeting may direct. And to direct the levying and collecting of a tax upon the taxable inhabitants and property of said district sufficient to repay the sum so borrowed or authorized to be borrowed, with the interest thereon, to be levied and collected in such number of equal instalments not less than three nor more than five as said legal voters at such meeting may direct ; the first

Tax

of said annual instalments to be levied and collected in the year one thousand eight hundred and forty-six, and the others in the next succeeding years, one in each year until the whole number and amount of said instalments shall be levied and collected.

§ 2. After the said tax shall have been duly voted as aforesaid, the trustees of said district shall assess the several instalments according to law, within thirty days after the times when the said several instalments shall respectively become collectable by such vote of such district meeting. Tax to be assessed.

§ 3. Before issuing their warrant for the collection of any of the said instalments, the trustees of said district shall execute their several bonds to the clerk of said district, and his successors in office, in the penalty of at least twice the amount required to be raised by such warrant, with at least two sufficient sureties to be approved by the clerk of said district, conditioned that the said trustees shall severally faithfully discharge all duties incumbent upon them, relative to the collection, disbursement and accounting for the moneys mentioned in such warrant, according to law. Trustees to give bond.

§ 4. The warrant to be issued by the trustees of said district for the collection of any of said instalments, shall be made returnable within fifty days from the time of the receipt thereof, by the collector of said district, and may be renewed in the same manner and for the same term as warrants issued by the trustees of school districts may now, by law, be renewed. And whenever any collector of said district shall have received any warrant for the collection of any of said instalments or any part thereof, he shall immediately thereafter cause notices of the reception thereof to be posted up in at least five of the more public places in said district, and so located as will be most likely to give notice to the inhabitants thereof, and shall designate in such notices some convenient place in said district where said warrant may be found, and where the money to be collected thereby may be paid, for the space of not less than two days, which shall not be less than twenty nor more than twenty-five days from the time of posting such notices. And it shall be the duty of such collector to attend at the place and on the days specified in such notices between the hours of nine o'clock in the forenoon and five in the afternoon, for the purpose of receiving payment of said taxes; and any person may pay his taxes specified in such warrant to such collector at the time and place so designated, or at any other time and place within twenty-five days from the time of first posting said notices, on paying one per cent fees thereon; and no collector shall receive over one per cent fees for receiving or collecting any tax upon a warrant authorized by this act, which shall be Duty of Collector.

paid within said twenty-five days, except when his fees would be a fraction of a cent, in which case such collector shall be entitled to one cent for every such fraction.

Unpaid taxes
how collect-
ed.

§ 5. It shall be the duty of the collector receiving any warrant for the collection of any instalment of the tax authorized by this act, after the expiration of the said twenty-five days, to proceed and collect the unpaid taxes therein specified in the same manner as is now provided by law for the collection of taxes in school districts, and such collector shall be entitled to charge, collect and receive upon all sums collected by virtue of any such warrant after the expiration of said twenty-five days, five per cent, as and for his fees, together with travelling fees, at the same rate as are allowed upon executions issued by justices of the peace, to be computed from the place of residence of such collector; which fees may be collected upon and by virtue of said warrant in the same manner as the tax specified therein.

§ 6. This act shall take effect immediately.

CHAP. 7.

AN ACT in relation to common schools in the city of Utica.

Passed February 2, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Estimate of
costs of new
school hou-
ses.

§ 1. Whenever the board of school commissioners of the city of Utica, shall be of opinion that it is necessary to erect one or more new school houses for the accommodation of the common schools in said city, it shall be their duty to state such necessity with the reasons thereof, in their annual report, required to be made to the common council of the said city, together with an estimate of the expense of erecting the same.

Decision to
be made at
charter elec-
tion.

§ 2. At the succeeding charter election, each elector of the said city may, upon his ballot for city officers, write or print "For new school houses," or "Against new school houses," and in canvassing the ballots, the inspectors of election shall make a return of the number of ballots containing either of such expressions, to the common council of the city, in the same manner that they make returns of votes given for city officers.

Moneys
when to be
raised.

§ 3. If the number of ballots containing the words "For new school houses," exceed those containing the words "Against new school houses," it shall be the duty of th

common council, in addition to the moneys which they are otherwise authorized by law to raise by tax in the said city, to raise in the same manner that moneys are now raised for the ordinary expenses thereof, either in the ensuing year, or in one, two or three successive years, as they shall elect, such sum or sums of money, as the board of school commissioners in their said report shall have estimated to be necessary for the erection of such school house or school houses.

§ 4. Such moneys when raised, shall be paid to the treasurer of the city, and be kept by him distinct from other moneys in his hands, subject to be drawn by the board of school commissioners, for the expenses of erecting such proposed school house or school houses, and for no other purpose whatsoever. When raised to be paid to city treasurer

§ 5. The legislature may, at any time alter, modify or repeal this act. Right to repeal.

§ 6. This act shall take effect immediately.

CHAP. 8.

AN ACT to revive and continue in force an act entitled "An act to incorporate the New-York Historical Society," passed February 10, 1809, and to amend the same.

Passed February 2, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "An act to incorporate the New-York Historical Society," passed February 10th, 1809, is hereby revived and continued in force. Act of 1809 revived.

§ 2. The said act so revived and continued in force, is hereby amended by striking out at the end of the first section thereof, the words "Provided always that the yearly income, or value of the said real or personal estate do not at any time exceed the sum of fifteen hundred dollars, current money of the state of New-York," and inserting in the place thereof the words "But the clear yearly income of the said real and personal estate over and above the library and collections of the said society, shall not at any time exceed the sum of ten thousand dollars." Income of the society.

§ 3. The said revived act is hereby further amended by striking out in the fifth line of the third section thereof the words "A correspondent secretary," and inserting in the place thereof the words "a foreign corresponding secretary, and domestic corresponding secretary." Foreign corresponding secretary.

Duration of
charter.

§ 4. The said revived act is hereby further amended by striking out in the first part of the fifth section thereof the words "That this act shall be and remain in full force for the term of fifteen years, provided nevertheless."

Right to re-
peal.

§ 5. The legislature may at any time alter or repeal this act.

§ 6. This act shall take effect immediately.

CHAP. 9.

AN ACT to confirm the official acts of Charles Edwards, a justice of the peace.

Passed February 2, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Official acts
confirmed.

§ 1. All proceedings which have been had by and before Charles Edwards, as a justice of the peace, of the town of Glenville, in the county of Schenectady, since the first day of January, one thousand eight hundred and forty-four, shall be held to be of the same force, effect and validity, as if the said Charles Edwards had taken, subscribed and filed the oath of office required by the constitution and laws of this state, in the manner and within the time prescribed by law.

Saving
clauses.

§ 2. The passage of this act shall not affect or impair any suit or proceeding that may have been had or commenced in consequence of the invalidity of any such proceeding before said justice of the peace.

Liabilities &
forfeitures
remitted.

§ 3. All liabilities and forfeitures incurred by the said Charles Edwards, for having executed any of the duties of the said office, without having taken, subscribed and filed the said oath according to law, are hereby remitted.

§ 4. This act shall take effect immediately.

CHAP. 10.

AN ACT to amend an act entitled "*An act regulating highways and bridges, in the counties of Suffolk, Queens and Kings,*" passed February 23, 1830.

Passed February 5, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The 53rd section of the act entitled "*An act regulating highways and bridges, in the counties of Suffolk, Queens and Kings,*" passed February 23, 1830, is amended so as to read as follows, viz :—such commissioners shall cause a copy of the said verdict, with a statement of the charges and expenses, to be delivered to the supervisor of the town, who shall lay the same before the board of supervisors of the county, the board shall have power to examine into the principles on which such assessments shall have been made, and into the fairness and justice thereof, and to increase or reduce the damages, as in their judgment shall be just and reasonable. Damages how to be ascertained & allowed.

§ 2. The 54th section of the said act is amended so as to read "*as finally settled by the board of supervisors,*" in the room of "*as settled by the jury.*" Amendment.

§ 3. This act shall take effect immediately.

CHAP. 11.

AN ACT in relation to the county courts of the county of Rensselaer.

Passed February 5, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The present term of the courts of common pleas and general sessions of the peace, now being held in the county of Rensselaer, may be continued and held until and including the fourth Saturday after the commencement thereof; but no process issuing out of the said courts, except subpoenas and attachments, shall be tested or made returnable in the third or fourth weeks of the said term. Term may be continued

Petit jurors. § 2. The petit jurors now in attendance at the January term of said courts, shall attend to the end of the third week of said courts, hereby extended.

§ 3. This act shall take effect immediately.

CHAP. 12.

AN ACT to erect the town of Rice, in the county of Cattaraugus.

Passed February 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

**Town of Rice
erected.**

§ 1. All that part of the town of Hinsdale, in the county of Cattaraugus, lying north of the following described line, to wit : commencing on the west line of said town of Hinsdale, at the northwest corner of lot number thirty-two of said town, and running thence east on the north lines of lots number thirty-two, twenty-four, sixteen, ten, two, forty-two, thirty-four and twenty-six, to the northeast corner of said lot number twenty-six ; thence north on the east lines of lots numbers twenty-seven and twenty-eight, to the northeast corner of said lot number twenty-eight ; thence east on the north lines of lots number twenty, twelve and four, to the east line of the town of Hinsdale aforesaid, shall be erected into a separate town by the name of Rice ; and the first town meeting in said town shall be held at the house of E. Densmore, in said town of Rice, on the last Tuesday of February, in the year eighteen hundred and forty-six.

**Town of
Hinsdale to
remain.**

§ 2. All the remaining part of the town of Hinsdale lying south of the line described in the first section of this act, shall be and remain a separate town by the name of Hinsdale.

**Highway
taxes:**

§ 3. The highway taxes assessed on the non-resident lands within the bounds of the town of Rice, and paid over to the commissioners of highways of the town of Hinsdale, shall be paid over to the commissioners of highways of the town of Rice.

**Funds to be
apportioned.**

§ 4. The supervisors of the towns of Hinsdale and Rice, shall, as soon as may be, after the town meetings in said towns, on notice given by either of them for that purpose, meet at some convenient place in one of the said towns, and apportion the funds belonging to such towns agreeable to the last assessment roll.

**Town meet-
ing how to be
held.**

§ 5. Frederick Carpenter, and such other persons whom the legal voters of the meeting provided in the first section

of this act shall select, may preside at such meeting; and for that purpose shall have power to appoint a clerk, preserve order, and exercise all the powers of presiding officers in the same manner as if they were justices of the peace.

§ 6. This act shall take effect immediately.

CHAP. 13.

AN ACT *in relation to the county of Genesee.*

Passed February 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The board of supervisors of Genesee county shall have power to levy a tax of one hundred and fifty dollars upon the property assessed by the assessors of the town of Pavilion in said county, upon that part of the said town of Pavilion which formerly belonged to the town of Le Roy.

Tax of
\$150, in Pa-
vilion.

§ 2. The moneys collected under the first section of this act shall be appropriated, by said board of supervisors, for the benefit of the poor in said county, unless the said board by a vote shall otherwise order or direct.

Money, how
applied.

§ 3. This act shall take effect immediately.

CHAP. 14.

AN ACT *to amend an act entitled "An act relating to excise and to licensing retailers of intoxicating liquors," passed May 14, 1845.*

Passed February 16, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The first section of the act entitled "An act relating to excise, and to licensing retailers of intoxicating liquors," passed May 14, 1845, is hereby amended so as to read as follows: "On the third Tuesday of May next, and on the Tuesday next preceding the first Monday of May in every year thereafter, when by the terms of this act, or the act hereby amended, a meeting of the electors in any town or city in this state shall be necessary, the electors of the several towns and cities in this state, shall determine by ballot whether the board or boards of excise in their respective

Electors to
meet on the
third Tues-
day of May,
1846.

towns and cities shall or shall not grant licenses for the sale of intoxicating liquors."

Meeting of
commission-
ers of excise
in 1846.

§ 2. The annual meeting of the commissioners of excise for the several cities and towns in this state, shall be held for the year one thousand eight hundred and forty-six, and for that year only, on the third Wednesday of May next; and the licenses before that time granted to the keepers of inns and taverns, and to grocers, shall continue in force until the said third Wednesday of May next, and no longer.

Town clerks
to make re-
turn to coun-
ty clerks.

§ 3. It shall be the duty of the several town clerks, or other officers by whom the proceedings of town meetings and charter elections in cities are usually entered, within ten days after the vote provided for by this act and the act hereby amended shall be taken, to transmit to the clerk of their respective counties a statement of the number of votes for and against license in their several towns and cities. It shall also be the duty of the several county clerks within ten days after receiving such returns as aforesaid, to transmit a statement thereof to the secretary of state.

County
clerks to
make returns
to Sec. of
State.

City and coun-
ty of New-
York except-
ed.

§ 4. This act shall not apply to the city and county of New-York.

§ 5. This act shall take effect immediately.

CHAP. 15.

AN ACT for the relief of Nathan S. Hollister.

Passed February 16, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages to
be ascertain-
ed.

§ 1. The canal appraisers are hereby authorized and directed, subject to an appeal to the canal board as provided by statute, to examine and ascertain what damages, if any, have been sustained to the buildings and two lots of land, numbers fifteen and seventeen of Nathan S. Hollister, situate at the southwest corner of the intersection of Erie and Genesee-streets, in the village of West-Troy, in consequence of the building a new bridge across the Erie canal, the erection of wing walls on two sides of said lots, and the raising of the highway around his buildings.

Amount to
be paid.

§ 2. Such sum as shall be awarded him for his said damages by the canal appraisers or the canal board, in case of an appeal, shall be paid by the commissioners of the canal fund, out of any unappropriated moneys in their hands, to the said Hollister or his legal representatives.

CHAP. 16.

AN ACT to divide the sixteenth ward of the city of New-York into two wards.

Passed February 19, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The Sixteenth ward of the city of New-York is here-^{The 16th ward divided.} by divided by a line running through the centre of the Sixth avenue from Fourteenth to Fortieth-street.

§ 2. All that portion of the said ward lying westerly of the said line, shall be known as and constitute the Sixteenth^{16th ward} ward of said city, the portion lying easterly of said line shall hereafter be known as, and constitute the Eighteenth^{18th ward} ward of said city.

§ 3. An election shall be held within the limits of the said Eighteenth ward hereby created at the next charter election to be held in the city of New-York, at the time now appointed by law: at such election there shall be chosen an alderman, an assistant alderman, two assessors and two constables for the said Eighteenth ward, who shall enter upon their offices at the same time and in the same manner as the other charter officers chosen at said election.^{Election in 18th ward.}

§ 4. All the existing provisions of law relating to the wards of the city of New-York shall, so far as they may be applicable, apply to the said Eighteenth ward hereby created.^{Existing laws to apply to 18th ward.}

§ 5. Until the officers named in the third section of this act shall have been chosen in said Eighteenth ward, the officers already chosen for the Sixteenth ward shall continue to perform the duties of their respective offices, as if the division provided for by this act had not been made.^{Officers.}

§ 6. The jurisdiction of the assistant justice for the Twelfth^{Assistant Justice} and Sixteenth wards shall extend to the said Eighteenth ward hereby created.

§ 7. This act shall take effect immediately.

CHAP. 17.

AN ACT to authorize the city of Hudson to borrow money.

Passed February 20, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

\$5000 dollars
may be bor-
rowed.

§ 1. The common council of the city of Hudson is hereby authorized to borrow a sum of money not exceeding five thousand dollars, for the purpose of liquidating the claims of sundry individuals for that amount, arising out of awards to them for lands taken by said city, and the improvement of the same for public benefit.

To be a debt
on the city.

§ 2. The said sum shall be a debt chargeable upon the compact part of said city.

When and
how repaid.

§ 3. The loan of the sum hereby authorized, shall be repaid in ten equal annual instalments, together with the annual interest on the same, from the time it was made, at the rate of seven per cent per annum; and the common council of said city are hereby authorized to raise by tax upon the real and personal property of said city in the same manner as the general taxes of said city are levied and collected, the annual interest of the above mentioned loan, and to pay over the same in discharge of such interest; and also in each year in which an instalment of the above loan shall become due and payable, to raise, levy and collect, in the same manner, a sum equal to that instalment, and to pay over the same in discharge thereof.

§ 4. This act shall take effect immediately.

CHAP. 18.

AN ACT to extend the time for the collection of taxes in the city and county of Albany.

Passed February 27, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time exten-
ded.

§ 1. If the collectors of taxes in the several wards of the city of Albany, and the several towns in the county of Albany, shall, within the time now provided by law, pay over all moneys by them collected, and shall respectively renew their securities to the satisfaction of the supervisors of the

said wards and towns respectively, the time for collecting and making the final returns of taxes in said wards and towns shall be extended to the first day of April next.

§ 2. This act shall take effect immediately.

CHAP. 19.

AN ACT to divide the town of Sparta, and to erect the towns of Sparta, West Sparta and North Dansville, in the county of Livingston.

Passed February 27, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All that part of the town of Sparta, in the county of Livingston, included within the following bounds : beginning at the southwest corner of the town of Springwater, in said county, thence southwardly along the line of the said county to the southeast corner thereof, thence westwardly along the line of said county to the line of Allegany county, thence northwardly along the west bounds of township number six, in the sixth range of townships, of the Pulteney estate, to the north bounds of said township, thence eastwardly along the north bounds of said township, to the place of beginning, is hereby erected into a separate town by the name of North Dansville. Town of North Dansville erected.

§ 2. All the remaining part of the said town of Sparta, lying east of the Canascraga creek, is hereby erected into a separate town by the name of Sparta ; and all the remaining part of said town of Sparta, lying west of said creek, is hereby erected into a separate town by the name of West Sparta ; and each of said towns shall hold its first town meeting on the first Tuesday of April next, at nine o'clock in the forenoon ; in the said town of North Dansville, at the house of George G. Taylor ; in the said town of Sparta, at the house of Darling Havens, and in the said town of West Sparta, at the school house near John Muchlers. Town of Sparta to remain. Town of West Sparta erected.

§ 3. At the first town meeting of the said town of North Dansville, Amariah Hammond, Horatio G. Taggart, and John Wilkinson, or any two of them, may preside ; at the first town meeting in said town of Sparta, William Purdy, James S. Hammond, and William Scott, or any two of them, may preside ; and at the first town meeting in said town of West Sparta, Archibald Keyser, Levi Robinson, junior, and Peter Van Nuys, or any two of them, may preside ; and each

Future town
meetings.

of said boards are hereby authorized to appoint a clerk and to keep the polls of their respective town meetings, and to perform all other duties as such presiding officers, in the same manner as if they were justices of the peace. All future annual town meetings, in said towns, shall be held on such days as is now or may be hereafter provided for holding annual town meetings in the county of Livingston, at such places as a majority of the electors in each of said towns shall designate.

§ 4. This act shall take effect immediately.

CHAP. 20.

AN ACT to amend the act entitled "*An act to amend the several acts relative to the inspection of beef and pork, and the appointment of inspectors in the city of New-York,*" passed May 6th, 1844.

Passed February 28, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Sections re-
pealed.

§ 1. Sections first, second, third, fourth, fifth, sixth and seventh, of the act entitled "*An act to amend the several acts relative to the inspection of beef and pork, and the appointment of inspectors in the city of New-York,*" passed May 6th, 1844, are hereby repealed.

CHAP. 21.

AN ACT to extend the time for the collection of taxes in the county of Rensselaer.

Passed March 2, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time exten-
ded.

§ 1. If the collectors of taxes in the several wards of the city of Troy, and several towns in the county of Rensselaer, shall, within the time now provided by law, or within ten days thereafter, pay over all moneys by them collected : and shall respectively renew their securities to the satisfaction of the supervisors of such wards and towns respectively ; the time for collecting such taxes and making the final returns of taxes shall hereby be extended to the first day of April next,

and for that purpose the warrants already issued to said collectors are hereby renewed, and shall be valid to sustain any levy or sale already made or hereafter to be made for the purpose of collecting such taxes.

§ 2. This act shall take effect immediately.

CHAP. 22.

AN ACT to amend the "Act to punish the procurement of abortion and for other purposes," passed May 13th, 1845.

Passed March 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Every person who shall administer to any woman ^{Crime.} pregnant with a quick child, or prescribe for any such woman, or advise or procure any such woman to take any medicine, drug or substance whatever, or shall use or employ any instrument or other means, with intent thereby to destroy such child, unless the same shall have been necessary to preserve the life of such mother, shall, in case the death of such child, or of such mother be thereby produced, be deemed guilty of manslaughter in the second degree.

§ 2. The first section of chapter two hundred and sixty of ^{Repeal.} the laws of eighteen hundred and forty-five, entitled "An act to punish the procurement of abortion, and for other purposes," is hereby repealed.

§ 3. This act shall take effect immediately.

CHAP. 23.

AN ACT to amend the act passed April 18th, 1843, entitled "An act in relation to the Croton Waterworks in the city of New-York."

Passed March 4, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the mayor, recorder and aldermen of the city of New-York, acting as the supervisors of the said city, to order and cause to be raised annually, and to be collected, such amount of money as shall be requisite to defray the interest upon the "Water stock of the city of ^{Money to be raised by tax to pay interest on water stock.}

Water pipes
where to be
laid.

New-York," by tax on the estates real and personal of the freeholders and inhabitants of, and situate within such portions of said city as shall be comprised within the following limits, to wit: All of the said city which lies south of a line commencing on the west bounds of the said city, opposite the centre of the block between streets now known as Thirty and Thirty-first, running thence easterly on a straight line from its commencement to the east bounds of said city, and such other streets and avenues north of the above named line as the mayor, recorder and aldermen of the city of New-York (acting as the aforesaid supervisors,) may from time to time order and cause to be laid therein, the water pipes for the supplying the inhabitants thereof with Croton water.

Repeal.

§ 2. The provisions of the act of April 18th, 1843, inconsistent with this act are hereby repealed.

CHAP. 24.

AN ACT to provide for the public printing.

Passed March 5, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Repeal.

§ 1. The act entitled "An act to provide for the public printing," passed January 21, 1843, is hereby repealed.

Printing for
senate and
assembly
and depart-
ments how to
be done.

§ 2. The printing for the senate and assembly, for the comptroller, secretary of state, attorney and surveyor general, commissioners of the land office and canal fund, the banking department, and all other printing for any and every of the state officers, shall hereafter be done as follows: The comptroller and secretary of state shall give at least twenty days notice in two public newspapers published in each senate district in this state, that they will, on or before a day to be specified in said notice, receive sealed proposals for the printing provided to be done under this section, for two years, to be performed in the same style of execution as to type and paper, as that heretofore furnished; and that they will receive separate bids for the printing to be done for the senate, assembly, and public offices, or any portion of the printing to be done for the public offices; at the expiration of which time they shall open said proposals, and enter into a contract or contracts with such person or firm as shall make the lowest offer or bid to do such printing, and shall give security in a bond to the people of the state of New-York, to the satisfaction of the comptroller and secretary of state,

for the faithful performance of his or their contract, which contract shall continue in force for two years from the time of making the same.

§ 3. The secretary of state and comptroller shall annually issue proposals for and receive bids as provided in section two of this act, for the printing and publishing of the session laws : and they shall, on receiving such proposals, enter into contract with the person or persons who shall make the lowest bid, and furnish sufficient security for the performance of the same : and the legislature may, by concurrent resolution, require an extra number of copies to be published, to be sold under the direction of the secretary of state at an advance not exceeding ten per cent on the original cost ; and the distribution of the said laws to the several county clerk's offices shall be made within sixty days after the adjournment of the legislature.

Proposals to be received for printing the Session Laws annually.

§ 4. All notices now required to be published in the state paper by any law of this state, or which may be so required hereafter to be published, shall, after the provisions of this law take effect, be published as follows : The state officers, who by this act are authorized to make contracts for the other public printing in this act provided for, shall at the same time and in the same manner as is in this act before provided, issue proposals and receive sealed bids as hereinbefore provided, for the printing and publishing once in each week in a public newspaper to be printed in the city of Albany, of all notices now by law required to be published in the state paper, at so much for each and every folio consisting of one hundred words contained in any such notice. And the state officers aforesaid, shall, by a certificate to be made and signed by them and filed together with all the bids in the office of the comptroller give and award the printing and publishing of all notices mentioned in this section to such person or persons as shall make the lowest bid for the same by the folio as aforesaid, and who shall execute good and sufficient security in a bond to the people of the state of New-York to the satisfaction of the said state officers for the faithful performance of such printing and publishing ; and the publication of such notices by the person or persons in the newspaper to be published by him or them, shall have the same effect when given in evidence as has heretofore been given by law to notices published in the newspaper printed by the state printer. And the said person or persons to whom the printing of the notices provided for in this section shall be awarded, shall charge and receive from the person or persons ordering the publication thereof, the prices stipulated in their contract with the state officers aforesaid, and no more.

Legal notices how and in what paper to be published.

LAWS OF NEW-YORK.

Copy of certificate to be published. § 5. The comptroller and secretary of state shall, immediately after making and filing their certificate, in the preceding section provided for, publish in the present state paper a copy of such certificate.

Guarantor by whom to be approved of. § 6. To every bid made under any of the provisions of this act, there shall be annexed a guaranty subscribed by a guarantor of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for that purpose in such notice; and to every such guaranty, a certificate shall be annexed, of the secretary of state, comptroller, attorney-general, treasurer, surveyor-general, or the first judge of the county where the guarantor resides, that the guarantor is a man of property and able to make good his guaranty.

Notices commenced in the state paper to be valid. § 7. All notices and advertisements required by law to be published in the state paper, the publication of which has been commenced or ordered before the designation of the person or persons in the fourth section of this act, may be continued in said state paper, and be as valid as if this act had not passed.

Repeal. § 8. All laws which are inconsistent with the provisions of this act are hereby repealed.

Office abolished. § 9. The office of state printer is hereby abolished.

§ 10. This act shall take effect immediately.

CHAP. 25.

AN ACT granting the consent of the state of New-York to the purchase by the United States, of certain lands for defensive works, and ceding jurisdiction over the same.

Passed March 7, 1846

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Consent of the state given to the U. States to purchase certain lands. § 1. The consent of the state of New-York is hereby given to the purchase by the United States, of such lots of ground and tracts of land in or near the city of Buffalo, at or near the mouth of Genesee river, and at or near Sacketts Harbor, and also to the purchase of such island or islands in the river St. Lawrence, between St. Regis and the Thousand islands, as the authorities or government of the United States may select for the site of fortification or defensive works at the points above designated, and the United States may have, hold, use, occupy and own said lots of land, and such island

or islands, and exercise jurisdiction and control over the same subject to the restrictions hereinafter mentioned.

§ 2. The jurisdiction of the state of New-York in and over the said lands and island or islands mentioned in the last section, shall be, and the same is hereby ceded to the United States, for the purpose of erecting fortifications or defensive works thereon. Jurisdiction over the same ceded.

§ 3. The said consent is given, and the said jurisdiction ceded; upon the express condition that the state of New-York shall retain a concurrent jurisdiction with the United States, in and over the said tracts of land, and island or islands, so far, as that all civil process in all cases, and such criminal process as may issue under the laws or authority of the state of New-York, against any person or persons charged with crimes committed without said tracts of land, and island or islands, may be executed therein in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such process may affect the real or personal property of the United States. State to have concurrent jurisdiction with the U. States.

§ 4. The jurisdiction hereby ceded shall not vest in respect to any or either of such lots of land or islands, until the United States shall have acquired the title to the same, either by purchase or in the manner hereinafter prescribed. Title how acquired.

§ 5. If the United States cannot acquire the title to the said tracts of land and islands, or either of them by purchase, the same may be taken, and the damages may be ascertained and paid in the manner prescribed in the fourth article of the second title of chapter nine of the third part of the Revised Statutes, and the same proceedings shall be had in all respects as are prescribed in the said article. Provision in case title cannot be acquired by purchase.

§ 6. The said tracts of land and island or islands, when acquired by the United States by purchase or by proceedings under the last section, shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded, and the exemption from taxation hereby granted, shall continue in respect to said tracts of land or island or islands respectively, so long as the same shall remain the property of the United States, and no longer. Lands to be exonerated from taxes and assessments.

§ 7. This act shall take effect immediately.

CHAP. 26.

AN ACT to extend the time for the collection of taxes in the town of Italy, in the county of Yates.

Passed March 7, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. If the collector of taxes of the town of Italy, in the county of Yates, shall, within ten days after the passage of this act, pay over all moneys by him collected, and renew his bonds in such manner as the supervisor or town clerk of said town may require, the time for the collection and making return of taxes of the said town, shall be extended to the tenth day of April next.

§ 2. This act shall take effect immediately.

CHAP. 27.

AN ACT to extend the time for the collection of taxes in the town of Hancock in the county of Delaware.

Passed March 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. If the collector of taxes in the town of Hancock in the county of Delaware, shall, within ten days after the passage of this act, renew his bond to the satisfaction of the supervisor of the town, or in his absence of the town clerk, the time for the collection of the taxes in said town, and making the returns thereof, shall be extended to the fifteenth day of April next.

§ 2. This act shall take effect immediately.

CHAP. 28.

AN ACT for the relief of John Moore.

Passed March 7, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The attorney-general is hereby authorised and re- Bond or lease against J. Moore to be cancelled.
quired to cancel the bond or lease held by the state against John Moore, for the use or rent of the military lot near the village of Fort Covington, upon said Moore's paying a sum sufficient to make the annual rent twelve dollars per annum from the time said Moore first rented the said lot from the state to the present time:

§ 2. This act shall take effect immediately.

CHAP. 29.

AN ACT for the relief of the minor heirs of James Thompson, deceased.

Passed March 14, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The court of chancery, on the application of the ad- Right and title of the minor heirs how to be released.
ministrators of all and singular the goods, chattels and credits which were of James Thompson, late of the town of Milton, in the county of Saratoga, deceased, shall have power to authorize and order the said administrators to convey and release, under such restrictions as shall be deemed expedient, all the estate, right, title and interest of the minor heirs of the said James Thompson, deceased, in and to any real estate of which the said James Thompson died seised, and for the sale of which a bargain, contract or agreement, in writing or verbally, had been made by the said James Thompson, in his life time; and that one order may be made embracing all the cases in which such bargain, contract or agreement, for the sale of any parcel of said real estate shall have been made.

§ 2. If it shall appear, on such application, that it would be advantageous to the interest of such minor heirs, to make a specific abatement in the prices agreed to be paid, or from the sum due, for any such real estate, it shall be lawful for Abatement in price may be made.

such court, on filing the consent of the widow and the adult heirs and next of kin of said deceased, to authorize such abatement so far as the rights of such minor heirs are to be affected.

Conveyances
declared va-
lid.

§ 3. All conveyances which shall be made and executed by such administrators, in pursuance of the provisions of this act, shall be as valid and effectual as if made by such minor heirs themselves if they were of full age.

Saving
clauses.

§ 4. Nothing in this act contained shall give to either of such minor heirs any other or greater interest or estate in the proceeds of such real estate than he would have had if a specific performance of such bargain, contract or agreement had been decreed by the court of chancery, at the price actually received on such sale.

§ 5. This act shall take effect immediately.

CHAP. 30.

AN ACT to confirm the election and official acts of the town officers of the town of Ossinsing in the county of Westchester, and for other purposes.

Passed March 14, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Election of
officers in
1846 con-
firmed.

§ 1. The election of all officers elected at the town meeting held in and for the town of Ossinsing in the county of Westchester at the school house in school district number one, in said town, on the third Tuesday of May last, is hereby confirmed ; and the official acts and proceedings of the supervisor, town clerk, justices of the peace, and of all other officers of said town of Ossinsing, elected at the said town meeting, are hereby confirmed and declared valid, in the same manner and with the same force and effect as if such officers had been elected at an annual town meeting ; and all official acts and proceedings of said officers, or either of them, which may be by them or either of them, hereafter performed, shall be valid, and of the same force and effect as if the said officers had been elected at an annual town meeting.

Liabilities
and forfei-
tures remit-
ted.

§ 2. All liabilities and forfeitures incurred by the said officers, or any or either of them, for having assumed the said offices, or executed any of the duties and powers thereof, under the said election, are hereby remitted.

Saving
clauses.

§ 3. This act shall not in any manner affect the rights of any person to or in any suit or other legal proceeding which may have been commenced or had, in consequence of the

invalidity of any act or proceeding by or before any of the said officers, previous to the passage of this act.

§ 4. The next town meeting to be held in and for the said town, shall be held at the district school house, in school district number one in said town, on the first Tuesday of April, in the year one thousand eight hundred and forty-six; and thereafter on the same day of the annual town meetings of the several towns in said county, and at such place therein, as the majority of the electors of the said town shall designate.

Next town meeting.

§ 5. The name of the said town of Ossinsing is hereby changed to "Ossining," by which name the same shall hereafter be known and designated.

Name to be "Ossining."

§ 6. This act shall take effect immediately.

CHAP. 31.

AN ACT concerning the district attorney and county treasurer of the county of Kings.

Passed March 18, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The district attorney of the county of Kings shall hereafter receive for his services as such district attorney, in lieu of the fees now allowed by law, and exclusive of disbursements, an annual salary of one thousand and five hundred dollars, to be audited and paid to him by the board of supervisors of said county.

Salary of district attorney in \$1,500.

§ 2. It shall be the duty of the district attorney of the said county of Kings, to collect and pay over to the treasurer of the said county, the taxable costs in all cases where the court in which any criminal proceeding may be pending, shall order the same to be discontinued or dismissed on payment of costs, which moneys so collected by such district attorney, shall be by him paid over to the county treasurer within thirty days after he shall receive the same.

District attorney to pay certain costs to county treasurer.

§ 3. The act to regulate the fees of district attorneys and to repeal the several acts relating to the same, passed May seventh, eighteen hundred and thirty-nine, and so much of title eight, chapter two, part four, of the revised statutes, as relates to the fees of district attorneys, and is inconsistent with the provisions of this act, shall not extend to or be applied in the county of Kings.

Act of May 7, 1839, not to apply to Kings co.

§ 4. The treasurer of the county of Kings shall hereafter receive for his services the fees now allowed by law, but the

County treasurer's salary

LAWS OF NEW-YORK.

whole amount thereof shall not in any one year exceed the sum of five hundred dollars.

§ 5. This act shall take effect immediately.

CHAP. 32.

AN ACT *to extend the gaol liberties of the city and county of New-York.*

Passed March 18, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Jail liberties.

§ 1. From and after the passage of this act, all of the city and county of New-York, shall be the jail liberties of the said city and county.

CHAP. 33.

AN ACT *to incorporate the Warren Free Institute in the city of Troy.*

Passed March 19, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Corporati
created.

§ 1. Mary Warren, widow of Nathan Warren deceased, Nathan B. Warren, Stephen E. Warren, George H. Warren, Edmund Schriver, John Ireland Tucker, Amos S. Perry and such others as now are, or hereafter may become their associates, are hereby constituted a body corporate by the name and style of "The Warren Free Institute of the city of Troy," to be located in the said city of Troy, for the purpose of maintaining and conducting a free school, already established by the said associates for the instruction of indigent female children in the elementary branches of English education, in music, needlework and other useful employments, and of maintaining a place of worship for the gratuitous use of the pupils of the said school and the families to which they belong, and of others who may attend the same.

Name and
style.

Affairs to be
managed by
seven trustees.

§ 2. There shall be seven trustees of the said Institute, of whom not more than two may be unmarried females, and the persons named in the first section of this act, shall be the first trustees. They and their successors shall possess all the powers, and enjoy all the rights, benefits and privileges,

conferred on trustees of academies in and by the fourth article of the first title of chapter fifteen and part first of the Revised Statutes, except that any four of them shall be a quorum for the transaction of business, and that they shall not be authorized to sell, mortgage, or in any other way dispose of any real property which may belong to the said corporation, unless the sanction of the chancellor be first given, and then only for the purpose of procuring other real property more suitable for the purposes herein specified; and except also that the said trustees and their successors shall not incur any debt or bind the said corporation by any bond or other obligation for any debt, other than for the current expenses of the said school and place of worship, and the compensation of the teachers and other persons employed by them, and at least two-thirds of the annual income of the said corporation shall be applied to the support of the said school and the clothing of the pupils therein; but the said Institute shall not be deemed an academy within the provisions of the first title of the said chapter fifteen, and shall not be entitled to receive any share of the literature fund.

Institute not deemed an academy, or entitled to literature fund.

§ 3. The pupils in the said school shall be selected from time to time by the said trustees, or by such committee as they shall appoint, and shall not be subject to any charge for instruction therein.

Pupils how selected.

§ 4. The said corporation shall possess the powers, and be subject to the provisions of the third title of chapter eighteen of the first part of the Revised Statutes, except that on a dissolution thereof, or upon the alteration or suspension of its charter without the consent of the trustees thereof, any property which shall at the time belong to it shall be disposed of and vest in such persons and to such legal purposes and trusts as shall have been declared in either of those events, in the instrument by which the title to such property was transferred to the said corporation.

General powers.

CHAP. 34.

AN ACT relative to assessors in the town of Newburgh, in the county of Orange.

Passed March 25, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The electors of the town of Newburgh, at their next annual town meeting, shall elect five assessors for said town,

Assessors to be divided into classes.

LAWS OF NEW-YORK.

who shall be divided into three classes, (one class to consist of one person, and two classes to consist of two persons each) according to the provisions of the third and fourth sections of the act entitled "An act to reduce the number of town officers and town and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845.

§ 2. This act shall take effect immediately.

CHAP. 35.

AN ACT to provide for the appointment of an additional number of commissioners of deeds in and for the city and county of New-York.

Passed March 26, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Fifty additional com'rs to be appointed.

§ 1. There may be appointed fifty commissioners of deeds for the city and county of New-York, in addition to the number now limited by law, to be appointed in the same manner, possess the same powers, hold their offices for the same time, and be subject to all the provisions, as are now provided by law, in relation to commissioners of deeds for said city and county.

§ 2. This act shall take effect immediately.

CHAP. 36.

AN ACT relating to part of the Bedford road in the city of Brooklyn.

Passed March 26, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Part of road closed.

§ 1. All that part of the Bedford road in the city of Brooklyn, as laid down and designated on the map made by the commissioners appointed to lay out streets, avenues and squares, in certain wards of said city, which lies north of Myrtle avenue in said city, is hereby forever closed and discontinued as a street or road, and is hereby declared no longer to constitute a part of the plan or map of said city, which is hereby altered and modified in that respect.

CHAP. 37.

AN ACT to repeal "*An act for the preservation of trout in the Owasco Lake,*" passed April 23, 1844.

Passed March 26, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "*An act for the preservation of trout in the Owasco Lake,*" passed April 23, 1844, is hereby repealed.

CHAP. 38.

AN ACT to authorize the supervisors of the county of Lewis to levy a tax to enlarge and repair the poor-house of said county.

Passed March 26, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The supervisors of the county of Lewis are hereby authorized to levy a tax upon said county not exceeding one thousand five hundred dollars, for the purpose of adding to and repairing the present poor-house buildings in said county, said tax to be levied and collected in the same manner as other town and county charges. Tax for poor house.

§ 2. This act shall take effect immediately

CHAP. 39.

AN ACT relating to part of Carll-street in the city of Brooklyn.

Passed March 26, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All that part of Carll-street in the city of Brooklyn, as laid down and designated on the map, by the commissioners appointed to lay out streets, avenues and squares, in certain wards of said city, which lies north of Tillary-street Part of street closed.

LAWS OF NEW-YORK.

in said city is hereby forever closed and discontinued as a street, and is hereby declared no longer to constitute a part of the plan or map of said city, which is hereby altered and modified in that respect.

CHAP. 40.

AN ACT to incorporate the *Madison University*.

Passed March 26, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

Name.

§ 1. Friend Humphrey, Seneca B. Burchard, William Colgate, and their associates, are hereby constituted a body corporate, by the name of "The Madison University," for the purpose of promoting literature and science. The said corporation shall have perpetual succession, with power to sue and be sued ; to make and use a common seal, and alter the same at pleasure ; to hold real and personal property ; but it shall not at any one time own real estate yielding an annual income exceeding ten thousand dollars. The location of the said university shall be at the village of Hamilton in the county of Madison.

Board of
trustees.

§ 2. Friend Humphrey, Seneca B. Burchard, William Colgate, William L. Marcy, Palmer Townsend, William Cobb, Ira Harris, Henry Tower, Nathaniel Kendrick, Alva Pierce, Bartholomew T. Welch, Edward Bright, junior, William R. Williams, Robert Kelley, Harvey Edwards, Charles Walker, Smith Sheldon, Joseph Caldwell, John Munro, John N. Wilder, George Curtis, Elisha Tucker, Pharcellus Church, James Edmonds, Joseph Trevor, Amos Graves and Alonzo Wheelock, are hereby appointed trustees of the said corporation, with power to fill any vacancy in their board, of whom nine members shall constitute a quorum for the transaction of business.

Board to ap-
point profes-
sors.

§ 3. The said board of trustees shall appoint the professors, and such other instructors as they may deem necessary, subject to removal by a majority of the votes of all the members constituting the board.

Diplomas
may be gran-
ted.

§ 4. The said university may grant to students under its charge, diplomas or honorary testimonials, in such form as it may designate. It may also confer such literary honors, degrees and diplomas as are usually granted by any university, college or seminary of learning, in the United States.

Effect of di-
plomas.

§ 5. Diplomas granted by the university shall entitle the possessors to the immunities and privileges allowed by usage

or statute to the possessors of like diplomas from any college or seminary of learning in the State.

§ 6. No diploma shall be conferred by the university, but in conformity with the laws of the State, in force at the time of conferring the same. Saving clause.

§ 7. The said university shall be subject to the visitation of the regents of the university of this State, in the same manner and to the same extent as the various colleges in this State. University subject to visitation of regents.

§ 8. The corporation hereby created shall possess the powers and be subject to the provisions of the third title, eighteenth chapter of the first part of the Revised Statutes, so far as the same are applicable, and have not been repealed. General powers.

§ 9. The Baptist Education Society of the State of New-York is hereby authorized to make such arrangement with the said university for the transfer of the property of the said society, or any part thereof, either absolutely or conditionally, to the said university, as the said society shall deem proper. Provision as respects property of Baptist Educational society

§ 10. The legislature may at any time alter or repeal this act. Right to repeal.

CHAP. 41.

AN ACT to incorporate the Polish Slavonian Literary Association in the State of New-York.

Passed March 26, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Major Gaspard Tochman of Poland, now counsellor at law of the bar of this state, and of the Supreme Court of the United States, and associated with him William H. Seward, also counsellor at law. formerly governor, George Folsom, senator, and Samuel J. Tilden member of the Assembly of this state, John Davis of Massachusetts, William Upham and Samuel S. Phelps of Vermont, John McPherson Berrien of Georgia, William S. Archer of Virginia, Albert C. Greene and James F. Simmons of Rhode Island, Jacob W. Miller and William L. Dayton of New-Jersey, George Evans of Maine, Willie P. Mangum of North Carolina, Reverdy Johnson and James A. Pearce of Maryland, Thomas Corwin of Ohio, John J. Crittenden of Kentucky, Spencer Jarnagin of Tennessee, senators of the United States in Congress, John De Mott, Albert Smith, Elias B. Holmes, Erastus D. Culver, Corporation created.

LAWS OF NEW-YORK.

Washington Hunt, Hugh White, Abner Lewis, R. P. Herrick, Horace Wheaton of this state, Andrew Trumbo, John H. Mc Henry, Wm. P. Thomasson of Kentucky, Benjamin Thompson, Julius Rockwell, Daniel P. King, Charles Hudson and George Ashmun of Massachusetts, Columbus Delano, Samuel F. Vinton, Joseph M. Root, Daniel R. Tilden and Joshua R. Giddings of Ohio, John Runk, George Sykes and Joseph Edsall of New-Jersey, Alfred Dockery of North Carolina, George P. Marsh and Jacob Collamer of Vermont, John R. Rockwell and Samuel D. Hubbard of Connecticut, Robert Toombs of Georgia, Alexander Ramsey, Richard Brodhead and James Pollock of Pennsylvania, Bannan G. Thibidaux of Louisiana, John S. Pendleton of Virginia, Luther Severance and Robert F. Dunlap of Maine, Henry Y. Cranston and L. H. Arnold of Rhode Island, Edward Long of Maryland, all members of the House of Representatives of the United States in Congress, John Mc Lean, Levi Woodbury, James M. Wayne, Samuel Nelson and John McKinley, judges of the Supreme Court of the United States, Albert Gallatin, late envoy extraordinary and minister plenipotentiary of the United States to France, Theodore Frelinghuysen, LL. D. Chancellor, and James Tallmadge, president of the University of New-York, Josiah Quincy, LL. D. late president, and Jared Sparks, LL. D. professor of Harvard University, Nathaniel F. Moore, LL. D. president of Columbia College, Professor Joseph G. Cogswell of New-York, Samuel A. McCoskry, Bishop of Michigan, Rev. G. S. Bedell, of the Episcopal Church of New-York, John McCloskey, bishop co-adjutor, and Charles Constantine Pise, DD. of the Roman Catholic Church of New-York, Thomas H. Skinner, DD. of New-York, and W. B. Sprague, DD. of Albany, of the Presbyterian Church, Rev. Henry W. Bellows of the Unitarian Church, Rev. Edwin Holt and William R. Williams, D. D. of the Baptist Church, William F. Havemeyer, mayor of the city of New-York, Josiah Quincy jr., mayor of the city of Boston in the state of Massachusetts, Greene C. Bronson, chief justice, and W. P. Hallett clerk, of the Supreme Court of this state, John Van Buren, attorney-general of this state, Benjamin F. Butler, district attorney of the United States, W. T. McCoun, vice chancellor and Lewis H. Sanford, assistant vice-chancellor, of this state, Daniel Lord, Daniel D. Lord, James Sandford, J. Prescott Hall, W. B. Lawrence, David P. Hall, Jonathan Miller, Thomas W. Tucker, Samuel A. Crapo, W. M. Evarts, John Jay, Charles E. Butler, C. H. Platt, Morris Franklin, E. P. Hurlburt, John Bigelow, Edward Sandford, M. K. Zabriskie, D. L. White, J. L. White, Mortimer Porter, Stephen P. Nash, T. W. Walker, Francis H. Upton, Ralph Lockwood, Edwin Stoughton, Ed-

win Burr, D. E. Wheeler, Alexander J. Johnson, H. S. Dodge, C. Vansantvoord, Richard H. Bowne, John C. Crosby, John H. Magher, Augustus Schell, John Slosson, Stephen Cambreleng, John H. Lee, William Van Wyck, of the city and state of New-York, T. Parkin Scott of Baltimore, in the state of Maryland, James Page and George W. Page, of Philadelphia, in the state of Pennsylvania, John Pickering. Richard Robins and George Snelling of Boston, in the state of Massachusetts, all counsellors at law, J. J. Astor, Edward Treadwell, G. H. Stryker, Alfred G. Jones, W. Woodbridge Hudson and Livingston K. Miller, all attorneys at law in the city and state of New-York, Richard S. Smith, president of the Union Insurance Company of Philadelphia, in the state of Pennsylvania, and Henry Bohlen, of the city and state last aforesaid, Dr. Samuel G. Howe, Amos Lawrence and Charles Lyman of Boston, in the state of Massachusetts, F. C. Tucker, president of the Leather Manufacturer's Bank, James Gallatin, president of the National Bank, Shepherd Knapp, president of the Mechanics' Bank, Reuben Withers, cashier of the Bank of the state of New-York, Preserved Fish, president of the Tradesman's Bank, George Newbold, president of the Bank of America, J. Oothout, president of the Bank of New-York, John S. Stevens, president of the Bank of Commerce and George Courtis, cashier of the same bank, D. Leavitt, president of the Bank of Exchange, and John I Fisk, cashier of the same bank, Robert L. Patterson, president of the Mutual Benefit Life Insurance Company, James G. King and Samuel Ward, bankers, Philip R. Kearney, secretary of the New-York Life Insurance Company, all of the city and state of New-York, Joseph R. Chandler, proprietor and editor of the Philadelphia United States Gazette, James W. Webb and Charles King, proprietors and editors of the Courier and Enquirer, of New-York, John H. Guion, publisher of the Morning News, of New-York, Theodore Dwight, proprietor, and W. B. Townsend, editor of the New-York Express, Francis Hall, proprietor and editor of the New-York Commercial Advertiser, Nathan Hale, proprietor and editor of the Boston Daily Advertiser, W. C. Bryant, proprietor and editor of the New-York Evening Post, John L. O'Sullivan, proprietor and editor, Thomas P. Kettell, and O. C. Gardiner, editors of the Democratic Review, John Allen proprietor, and L. Gaylord Clark, editor of the Knickerbocker, Horace Greely, editor and proprietor of the New-York Tribune, Gen. John Wilson, of Missouri, Col. James Monroe, R. Watts jun., M. D., H. J. Raymond, Fitz Greene Halleck, the poet, E. F. Foresty, Wm. Douglass, Vanbrugh Livingston, Campbell P. White, Isaac T. Smith, Elijah F. Purdy, James Connor, J. D. Fowler, Jacob A. Westervelt,

Name. Anson Livingston, John Cotton Smith, W. E. Whiting J. W. Bogart, all of the city and state of New-York, and all such persons as they shall at any time hereafter associate with themselves, are hereby created a body corporate by the name of the "Polish Slavonian Literary Association of the state of New-York," for the purpose of collecting a library and promoting the diffusion of knowledge of the history, science and literature of the nation of the Slavonian race—giving lectures and publishing tracts and a journal in the English and such foreign languages as the corporation shall deem proper.

Amount of property. § 2. To meet the exigencies of the purposes for which this corporation is created, it shall have the power of holding real and personal property to the amount of two hundred and fifty thousand dollars, which is to be acquired by subscriptions, gifts, donations, assignments, devises and by purchase.

Executive department. § 3. The executive department of the corporation shall consist of a president, two vice presidents, a corresponding secretary, a recording secretary, one librarian, one treasurer, and a board of directors whose number shall not exceed eleven members, including the president and two vice presidents, who shall be ex-officio members of the board of directors.

Officers elected annually. § 4. The officers enumerated in the preceding section shall be chosen annually, on the twenty-ninth of November, by a plurality of votes of the members who shall be present at such annual meeting. And if such meeting shall not be holden on that day, then on such other day as the president, or in his absence the acting vice president, shall appoint.

Vacancies. § 5. The vacancies which may take place between the annual elections shall be filled by commissions to be issued by the president, and in his absence by the acting vice president, with the advice of the board of directors. And the officers thus appointed shall continue in office until others in their stead be elected at the next annual meeting of the corporation.

By-laws. § 6. The corporation shall have the power of making such by-laws and regulations as they shall judge proper for regulating further their annual and other periodical meetings; for prescribing the duties of the respective officers and the mode of discharging them; for admission of new members, and the mode of suspending or expelling such officers and members as the safety and honor of the corporation may require, and for all other business calculated to promote the object and purposes of the corporation. But it is expressly provided that no by-law shall pass nor be changed, unless the meeting shall be attended by a majority of members of the association, or at least by two-thirds of those residing in the

city of New-York. The members residing in the other states may send their votes in writing if they choose to do so, which shall be counted with the votes of the members present at the meeting.

§ 7. Right Rev. Bishop McCoskry, George Folsom, senator, Wm. F. Havemeyer, mayor of the city of New-York, Major G. Tochman, or either two of them, are authorized to invite seven members of the association to form with them a committee, whose duty shall be to draw the first by-laws and to submit them to the decision of the corporation, at a meeting which the said committee shall call as soon as they prepare the by-laws. This meeting shall also elect the officers of the corporation for the current year. To be drafted

§ 8. No debt shall be contracted by the said corporation, Debt. except for the purchase of books, for printing and rent of rooms—and the whole amount of its debts, shall at no time exceed two thousand dollars.

§ 9. The said corporation shall further possess all general General powers. powers, and be subjected to all restrictions and liabilities prescribed by the third title of the eighteenth chapter of the first part of the Revised Statutes of this state.

§ 10. This act shall take effect immediately.

CHAP. 42.

AN ACT *incorporating the village of Sag Harbor.*

Passed March 26, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The district of country in the towns of East Hampton and South Hampton, in the county of Suffolk, comprised within the following limits : Beginning at the road leading from Sag Harbor to North Sea, on the old Legonee creek or brook, thence running with the said creek or brook to the middle line or old boundary between the great north and south division in the town of Southampton ; from thence on the said middle line until it strikes the division line between the said towns of East Hampton and South Hampton ; from thence a due course to a corner tree, on the land of the heirs of William I. Rysum, near the brook known by the name of Rattlesnake brook ; from thence a direct course to David Russel's bridge, over the north-west creek ; thence down said creek until it empties into the bay or harbor ; thence along said bay or harbor, including all buildings Boundaries of the village.

LAWS OF NEW-YORK.

of every description, houses, stores, wharves, and so forth, round a peninsula of land, known by the name of Brushy Neck, until it strikes the mouth of said old Legonee creek or brook ; thence following said creek to the place of beginning, shall hereafter be known and distinguished as the village of Sag Harbor, and the inhabitants residing within the bounds and limits aforesaid, shall hereafter be known by the name of the president and trustees of the village of Sag Harbor.

Name.

Power to sue
and be sued.

§ 2. The inhabitants of said village shall be a corporation by the name of the president and trustees of the village of Sag Harbor, and may sue and be sued, complain and defend in any court, make and use a common seal, and alter it at pleasure.

Trustees to
be elected.

§ 3. The inhabitants of said village entitled by law to vote at any general election in this state, shall meet on the first Monday of January, eighteen hundred and forty-seven, and by ballot, and plurality of votes, elect three trustees, who shall be ex-officio assessors and commissioners of highways, one clerk, one treasurer, and one collector, all of whom shall be qualified voters ; and the three trustees shall, by lot, determine the time of their continuance in office for one, two and three years ; and at each subsequent annual meeting, which shall be held on the first Monday of each year, one trustee only shall be chosen, whose term of office shall be three years, except in cases of vacancies, which may be supplied. One paper ballot shall contain written or printed, or partly written and partly printed, the names of all the persons for whom the elector intends to vote, designating the office to which each person so named is intended to be chosen ; but no ballot shall contain a greater number of names of persons designated to any office than there are persons to be chosen at that election. The inhabitants at such meeting may choose their own chairman, who, with the clerk, president of the trustees, and any magistrate of the village, shall be inspectors of the election ; and such election shall be conducted in all respects, as near as may be, as elections of state officers are required to be, and the inspectors shall have the same power and authority as inspectors of elections in towns.

Officers to
take oath.

§ 4. Every officer elected or appointed under this act, shall, within ten days after notice of his election or appointment, take and subscribe the oath required by the sixth article of the constitution of this state, and upon neglect or refusal to take such oath, shall forfeit to the said corporation the sum of five dollars.

§ 5. It shall be the duty of the trustees as soon after notice of their election as may be, to meet and choose one of their number president, who shall preside over their deliberations, put all questions before the board for their decision, and give

a casting vote in case of a tie ; but the acts of any two trustees met together shall be valid.

§ 6. The trustees shall have power to call special meetings of the inhabitants of said village, which meetings shall be called and conducted in the same manner as annual meetings ; and a call for a special meeting shall at any time be made, upon the application in writing of twelve freeholders therein stating the object of such call. Special meetings.

§ 7. The trustees of said corporation shall have power, and it shall be their duty : Police regulations.

1. To prevent and remove obstructions and encroachments upon the public streets, squares, landing places and sidewalks, to regulate, grade, pitch, and curb the same, and to plant and protect trees in said village ; and any expense incurred in suits instituted to prevent or remove obstructions or encroachments, shall be paid out of the highway commutation moneys :

2. To prevent and restrain cattle, horses, sheep, swine, and other animals, from running at large in said village :

3. To prevent immoderate riding, driving, or running of horses or other animals ; to regulate and prevent the firing of guns, squibs, crackers, or other preparations of gun-powder or other combustible materials therein : and to prohibit the keeping of more than twenty-five pounds of powder in any shop, store, house, or other building :

4. To superintend and direct all public improvements and expenditures upon the streets, sidewalks, public squares, and places of said village, and may appropriate and expend all moneys raised for highway tax for such purposes:

5. To purchase fire engines, hooks, ladders, buckets, and other apparatus ; to make, establish, and regulate public wells, cisterns, reservoirs, conduits and pumps, for the prevention and extinguishing of fires ; and to take, hold, purchase and convey such real and personal estate as may be required for erecting engine, hook and ladder houses ; for digging and making such wells, cisterns, reservoirs and conduits ; and also a room of convenient size, in which to hold corporation meetings ; and likewise a small apartment in which persons charged with any offence against the people of this state may be temporarily imprisoned before trial or examination, and keeping the same in repair, when the same shall have been authorized by the vote of a majority of the inhabitants of said village liable to be taxed therefor at any annual or special meeting. But no larger amount than one thousand dollars, shall be levied and collected in any one year for any and all purposes under the provisions of this act, except the highway commutation tax ; and in their discretion require the owners of dwelling-houses, shops, stores, and

other buildings to provide and keep on hand one or more buckets to be used in cases of fire :

6. To compel the inhabitants of said village, and any bystanders, to form ranks or lines, to convey water for the extinguishing of fires in said village, and to aid and assist the firemen in working their engines, hooks, ladders and hose thereat ; and any person (other than firemen) refusing to obey the order of the trustees, for the above mentioned purposes, shall be subject to a fine of not more than three dollars :

7. In their discretion for the prevention of fire, to cause a night watch to be kept in said village ; provided that no larger sum than one hundred dollars be raised in any one year for such purpose :

8. To make, construct and repair sidewalks, drains and sewers in the streets and lanes of said village :

9. To fill all vacancies that may occur in any of the offices created by this act, except trustee :

10. To make, alter, amend all by laws and ordinances not repugnant to the laws of this state or of the United States which they may deem necessary to carry into effect the provisions of this act ; to fix the fines, forfeitures and penalties, to enforce the same, not exceeding ten dollars for any one offence ; and the trustees may, in their discretion, remit the whole or any part of any such fine, forfeiture or penalty :

11. To erect or lease a public pound, and prescribe the rules and regulations thereof, and the mode and manner of impounding animals ; to appoint a pound keeper, who shall be entitled to the same fees, and shall have the same power and duties that pound keepers of towns by law now have :

12. They shall, also, annually appoint two police constables, who, within their limits, shall have the same powers, and be subject to similar duties in criminal cases, as constables in the said towns ; but their jurisdiction shall not extend beyond the corporate limits of the village, and they shall have no power to serve any civil process. It shall be their especial duty to arrest any and all persons in the village guilty of any crime, misdemeanor, or offence against the peace and good order of society ; and if any such arrest be in the night time after nine o'clock in the evening, to guard such offenders safely till morning light, and then take them before a magistrate to be dealt with according to law ; and for every such arrest in the day time or before nine o'clock in the evening, followed by a subsequent conviction for the offence charged, the police constable shall receive a fee of fifty cents ; and if the arrest be in the night time after the hour aforesaid, his fee shall be one dollar, if conviction follow, to be paid by the village. Police constables shall also be strictly bound to take notice of any unnecessary noise or dis-

turbance in the streets, or other places in said village; particularly in the night to admonish offenders, and if the offence be of sufficient magnitude, to arrest them. The trustees shall give these constables the preference to stand as watchmen in the night; provided they will perform the duty on terms as favorable as others equally competent. For any other services they render as conservators of the peace and good order of the village, they shall be entitled to receive such compensation as the trustees deem reasonable.

§ 8. It shall be the duty of the clerk to attend all meetings of the corporation and of the trustees, to keep the books and papers of the said corporation, to record in a book kept for that purpose all the proceedings and resolutions of every meeting of the trustees, and of the corporation, to give five days notice of all annual or special meetings of the corporation, due notice of trustee meetings, notify all officers, elected or appointed, of their election or appointment, within two days thereafter, to keep a record of all roads which now are or may hereafter be laid out in said village; which record or certified copy thereof shall be evidence in any court, in the same manner as the records of the clerks of towns now are. He shall attend to the publication of all by-laws, ordinances and notices, shall keep a true account of the expenses and disbursements of the corporation under each head or department of expenditures, and perform such other duties as the trustees may lawfully ordain or direct. He shall keep and file a poll list of the names of all persons voting at any election of officers of said village, or for laying a tax therein. In case of his absence from any annual or special meeting, the inhabitants may choose a clerk pro-tempore.

Duty of the clerk.

§ 9. The treasurer shall receive all moneys directed to be paid into the treasury of said corporation, and pay out the same upon the check of the clerk, countersigned by the president, and shall render an account of the state of the finances to the trustees whenever required by them, and deliver all money, books, papers and property of the corporation in his hands to his successor on demand.

Duty of the treasurer.

§ 10. The collector of the corporation shall collect all taxes for which the warrant of the trustees shall be delivered to him, for which purpose he shall possess the same power, proceed in the same manner, be entitled to the same compensation as collectors of towns, and pay over all moneys collected by him to the treasurer within the time limited in his warrant.

Collector.

§ 11. The treasurer and collector shall severally give to the trustees of said corporation a bond, conditioned for the faithful performance of their duties, with such security as said trustees may require.

Bond.

LAWS OF NEW-YORK.

assessments § 12. The trustees of said corporation, within sixty days after the annual meeting, shall make an assessment of all the property, real and personal, within the limits thereof, in the same form as the assessment roll of towns, and they shall proceed in the same manner as the assessors of towns are required by law to do, except that they shall give only ten days' notice of the time and place, when and where they shall meet for the correction of said assessment.

Road district § 13. The said corporation is hereby constituted a road district, and the trustees ex-officio commissioners of highways therefor. They shall discharge all the duties enjoined upon the commissioners of highways in the towns of East and South Hampton, and shall lay out, open and make streets, alleys, lanes and highways of any width, and discontinue the same as they may deem proper. All streets, alleys, lanes and highways, so opened, shall be under the direction of the trustees accurately surveyed, described and recorded in the book kept by the clerk, and the same, when opened, shall be public highways. The trustees shall assess the amount required for the laying out and opening any such street, alley, lane or highway, on the real and personal property of said village; and the inhabitants thereof shall be exempt from any tax, to lay out, construct or repair any road or bridge in any other parts of either of the said towns of East and South Hampton: provided, that the said trustees shall in no case lay out, alter or discontinue any such street, alley, lane or highway, unless required to do so, by a vote of at least three-fourths of the citizens assembled at the annual meeting, liable to pay a tax therefor: and provided further, it shall be necessary for any person or persons intending to apply to such annual meeting to vote on any road question as aforesaid, to give notice in writing to the clerk of such intention at least twenty days previous to such meeting, accompanied by the payment of five dollars, which shall be the clerk's fee for the following services: The clerk, on the receipt of such notice and payment, shall, at least ten days previous to said annual meeting, give written or printed notice, to be personally served, or left at the residence of each citizen entitled to vote on the question aforesaid, that declaration of such intention has been duly made according to the above provisions.

Street commissioner.

§ 14. The trustees shall appoint a competent person street commissioner, who shall have the same powers, and perform all the duties of overseers, in the manner and after the form required by law, of overseers of highways in the towns of East and South Hampton, except so far as relates to the expenditures of moneys collected and received as commutation for labor; which money shall be paid to the treasurer sub-

ject to the draft of the trustees, to be by them expended by contract or otherwise, in improving roads, bridges, public landing places, and so forth, and for the necessary expenses incurred in protecting the same against obstruction or encroachment, but for none other purpose whatsoever. The said commissioner, in addition to the amount allowed by law to overseers for services on the highway, shall be entitled to five per cent on the commutation money collected and paid in.

§ 15. The trustees shall, within sixty days after the annual corporation meeting, make out a tax according to the statute providing for the raising of highway taxes by commissioners of highways; and any person charged with such tax, may commute the same by paying the same to the street commissioner, estimating a day's labor at fifty cents; and any person neglecting or refusing to work out said tax, shall be subject to the same liabilities as are now provided by law for such neglect or refusal.

§ 16. The trustees are authorized and empowered to establish a fire department, to consist of engine, hose, hook and ladder companies, to appoint a sufficient number of firemen thereto, not exceeding thirty to each engine, ten to each hose, and fifteen to each hook and ladder company, including the officers. The companies may elect their own officers, which shall be a foreman, assistant foreman, and clerk, subject to the approval of the trustees.

§ 17. The firemen, on the second Monday of January in each year, shall meet and elect a chief and assistant engineer, both of whom shall be subject to the approval of the trustees. Said officers shall have the direction of the department under the by-laws and ordinances of the corporation, and the management thereof in time of fires; and every fireman who shall, during the time of fire, neglect or refuse to obey the reasonable order of such officers, or in case of their absence, those of their senior foreman, shall forfeit for each offence not less than five nor over ten dollars.

§ 18. It shall be the duty of the engineer immediately upon the occurrence of fire, to repair thereto and give such directions to the firemen as he may think necessary; to examine public wells, cisterns, and all fire apparatus, as often as once in four months; to report their condition to the trustees; advise such repairs and improvements of the same as he may think proper; call out and exercise the said companies with their apparatus, at least once in four months; to report all violations of any ordinance, rule or regulation that relates to the organization of the department, any conduct or behavior of any firemen, that shall tend to injure the service; and also report the condition of the department to the

LAWS OF NEW-YORK.

annual meeting, with such suggestions as he may think proper to insure its efficiency. The assistant engineer shall aid and assist the engineer, and in case of his absence, perform all his duties. If both are absent, the senior foreman shall act pro tempore.

Duty of firemen.

§ 19. The firemen at every alarm of fire shall repair immediately to their respective engines, hose, hooks and ladders, and convey them to the place where such fire may happen, and there in conformity to the directions of their foreman, under the control of the chief or assistant engineer or senior foreman, work and manage their engines, hose, hooks and ladders, with all their skill and power, for the extinguishing of said fire ; and, when the fire is extinguished, they shall return their respective engines, hose, hooks and ladders, to their proper houses or places of deposit.

Duty of the foremen.

§ 20. It shall be the duty of the foreman of each engine, hose, hook and ladder company, to heed the directions or suggestions of the engineer in all things that relate to the good care and management of his engine, hose, hooks, ladders or other apparatus, and each foreman shall report to the engineer verbally or in writing as often as required, the names of all persons attached to, and all vacancies in his company, and such particulars as regards the good and effective management of his engine, hose, hooks and ladders or other apparatus, and such improper conduct or behavior in any member of his company as shall tend to bring the service into disrepute. If any foreman neglect or refuse to report as aforesaid, for any such neglect or refusal he shall forfeit and pay a sum not less than ten dollars.

Meetings of firemen.

§ 21. It shall be the duty of every fireman belonging to any engine, hose, or hook and ladder company, to meet as often as once in a month, upon such day as the company to which they respectively belong shall appoint, and examine, or if their foreman direct, draw out, wash, cleanse, and exercise the same.

Engines, &c. to be examined.

§ 22. It shall be the duty of the foreman of each engine, hose, and hook and ladder company, to examine the engine, hose, hooks and ladders to which he may belong, to take command of the members composing his company, at every stated meeting or alarm of fire ; the assistant foreman at all times to aid and assist him, and in his absence to take command and officiate as foreman ; and further, the clerk of each company shall keep a list of members thereof, shall call their names at every alarm of fire, or stated meeting, shall note the names of absentees, collect all fines, and render an account of the same to the members of his company at any meeting thereof ; and no excuse shall be taken by him for any default, except sickness or absence from the village.

§ 23. The several fire companies shall uniform themselves Uniform. so as to be distinguished from citizens, and shall have power to make by-laws for their own internal government and order, and impose such fines and penalties for the breaking thereof, by any of their members, as they may deem proper; and all such fines and penalties may be collected by their clerk, but in case any fireman shall neglect or refuse to pay such fines or penalty to their clerk, the clerk shall report such neglect or refusal to the trustees, whose duty it shall be to prosecute such delinquent.

§ 24. Each person appointed a fireman shall, during his Privileges of firemen. continuance in office, be exempted and privileged from being empannelled on any jury or inquest, and from military duty, except in cases of war or actual invasion; and for this purpose the name of each fireman to be appointed by virtue of this act, shall be entered by the clerk of the village in a book to be kept by him for that purpose, and his certificate shall be sufficient evidence in all courts and elsewhere, of his said exemption and privilege.

§ 25. If any person shall injure any of the fire engines, Penalties. apparatus or implements used at any fire and belonging to the public, or in public use, or any of the houses in which they or any of them may be placed or kept, or shall injure any fire buckets, wantonly and maliciously, or shall obstruct or hinder in any manner free access to the engines, hose, hook and ladder carriages, or shall obstruct or hinder at any alarm of fire, the free and open conveyance of the same through the streets, or shall injure or remove any fire hook, ladder, hose or engine, from its proper place of deposit except at an alarm of fire, or by order of the proper officer, for the purpose of cleaning, repairing or exercising, or other necessary purposes, he shall forfeit and pay a sum not exceeding twenty, nor less than five dollars.

§ 26. Any person may take up any cattle, horses, sheep, Cattle may be put in pound. swine or other animals which may be found doing damage, or running at large in said village, and may put them immediately in the pound, and may then proceed to recover for the damage done by any such animal, or the penalty incurred by their running at large, and it shall be the duty of the pound master to receive such animal and detain it in the pound until the same shall be discharged according to law.

§ 27. The trustees are authorized and empowered to raise Money to be raised by tax. money by tax to be assessed upon the estate, real and personal, within the bounds of the corporation, to be collected from the several owners or occupants thereof, to pay all contingent and stated expenses of said corporation according to the provisions of this act, and to carry out its several powers and privileges; but no tax shall be levied and collected (except

LAWS OF NEW-YORK.

for street expenses) until the same shall have been authorised by a vote of a majority of the inhabitants liable to be taxed therefor, present at an annual or special meeting duly called for the purpose, and every motion or resolution authorizing the raising of any tax, shall specify the object for which such tax is to be imposed, and all moneys collected in pursuance thereof, may be expended for such object but for none other.

Apportion-
ment of tax.

§ 28. Whenever any tax (other than for street expenses,) shall have been directed to be levied, the trustees shall apportion the same among the taxable inhabitants of the corporation, and the non-resident owners of property therein in conformity as near as practicable with the provisions of law in respect to the assessment of taxes by town assessors; and when the assessment roll shall have been reviewed and completed; they shall deliver the same, together with their warrant, to the collector; which warrant shall be made returnable in sixty days from the time of the issuing thereof, and may be renewed by said trustees from time to time, if the same shall be necessary.

Persons lia-
ble to pay
tax.

§ 29. The person in possession of real estate, shall be liable to pay the taxes assessed thereon, and shall have the right to collect the amount of the owner, unless by agreement the occupant is bound to pay the same.

Annual
statement.

§ 30. The trustees shall make an annual statement of all moneys received into the treasury, specifying the items and the manner in which the same has been expended, separating the amount received and expended on account of highways, from all other taxes; which statement shall be filed with the clerk of the village previous to each annual election, and publicly read to the inhabitants before opening the polls. They shall further furnish the meeting with an estimate of the amount they may think necessary for the current expenses of the succeeding year, specifying the different objects for which such estimated appropriation will be required.

Pay as com-
missioners of
highways.

§ 31. The trustees of the corporation, while performing the duty of assessors, and commissioners of highways, shall be entitled to the same pay per day as the assessors and commissioners of highways of the towns of East and South Hampton; but shall not be allowed a compensation for any other services.

Pay of clerk.

§ 32. The clerk shall receive the same compensation, as the clerks of the towns of East and South Hampton are entitled to for similar services; and to twenty-five cents from every person appointed fireman by the trustees for every new certificate of membership; such certificate shall be countersigned annually without charge by the clerk.

Of treasurer.

§ 33. The treasurer shall be allowed one half of one per cent, on moneys that he shall both receive and pay out to

discharge the debts of the corporation, but nothing on which he may be required to pay over to his successor.

§ 34. Upon the breaking out of any fire, the justices of the peace, together with the constables in said village, shall repair to the place of such fire, and direct in the removal and securing of goods, and preventing the same from being stolen or destroyed, and the justices, if necessary, shall select and compel any persons, other than firemen, to watch over and protect from plunder or injury any goods so removed ; and any person refusing to obey or comply with such order shall be liable to a fine of five dollars.

Directions on
breaking out
of fire.

§ 35. No person shall erect any sidewalks opposite their premises in said village, higher or lower or of a different pitch than that designated in or by the grade established by the trustees ; and any person so offending shall forfeit a sum of not less than twenty dollars for every such offence.

Sidewalks.

§ 36. No person shall place or deposit on the sidewalk in the public streets, lanes, alleys, squares, or landing places in the village, unless for building purposes, or in case of strict necessity, any lumber, wood, stone, sand, rubbish, vehicle of any description, or any other article that may encumber the same ; and any person refusing or neglecting to remove such article or articles immediately, and with all reasonable despatch, upon the written or printed order of the trustees or street commissioner, shall forfeit a sum of not less than three dollars.

Restriction.

§ 37. All fines, forfeitures and penalties, incurred under this act or under any by-laws made in pursuance thereof, and to carry out its provisions except otherwise specially declared therein, may be sued for and collected by the trustees before any justice of the peace, or in any court having cognizance thereof.

Fines.

§ 38. No person shall be an incompetent judge, juror, justice, constable, or witness by reason of his being an inhabitant of said village, in any action or proceeding in which said corporation is a party, or shall be interested.

Competency
as judge, &c.

§ 39. The trustees now elected shall perform all the duties of trustees prescribed under this act, until the first Monday of January, eighteen hundred and forty seven. They shall call a special meeting of the inhabitants of the corporation immediately after the passage of this act, to choose all the elective officers except trustees created hereby, and they shall appoint all other officers, who shall continue in office during the same period.

Present trustees how long
to act.

§ 40. And be it further enacted, that an act entitled " An act to vest certain powers in the freeholders and inhabitants of the port of Sag Harbor, for the purpose of preventing and extinguishing fires, and for other purposes," passed March 12,

Repeal.

1819, together with all laws in anywise inconsistent herewith, be and the same are hereby repealed.

§ 41. This act shall take effect immediately.

CHAP. 43.

AN ACT to revive the act incorporating the *St. Andrews Society of the city of Schenectady*.

Passed March 28, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

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|------------------|--|
| Act revived. | § 1. The act to incorporate the St. Andrews Society, of the city of Schenectady, is hereby revived, and shall continue in force for twenty years from the passage of this act. |
| General powers. | § 2. The said corporation shall be subject to all the provisions of the third title, of the eighteenth chapter, of the first part of the Revised Statutes, which are now in force, and applicable to this corporation. |
| Acts confirmed. | § 3. All former acts of said society, had or done since the expiration of their former charter, are hereby confirmed. |
| Right to repeal. | § 4. The legislature may at any time alter, or repeal this act, or the act hereby revived. |

CHAP. 44.

AN ACT for the apportionment of the Members of the Assembly of this State.

Passed March 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

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|----------------|---|
| Apportionment. | § 1. The number of members of the Assembly of this State, hereafter to be chosen in the several counties thereof, shall be as follows : |
| | In the city and county of Albany, four ; |
| | In the county of Allegany, two ; |
| | In the county of Broome, one ; |
| | In the county Cattaraugus, two ; |
| | In the county of Cayuga, three ; |
| | In the county of Chautauque, two ; |
| | In the county of Chemung, one ; |
| | In the county of Chenango, two ; |

In the county of Clinton, one ;
In the county of Columbia, two ;
In the county of Cortland, one ;
In the county of Delaware, two ;
In the county of Dutchess, three ;
In the county of Erie, four ;
In the county of Essex, one ;
In the county of Franklin, one ;
In the county of Fulton, one ;
In the county of Genesee, two ;
In the county of Greene, two ;
In the county of Herkimer, two ;
In the county of Jefferson, three ;
In the county of Kings, three ;
In the county of Lewis, one ;
In the county of Livingston, two ;
in the county of Madison, two ;
In the county of Monroe, three ;
In the county of Montgomery, two ;
In the city and county of New-York, sixteen ;
In the county of Niagara, two ;
In the county of Oneida, four ;
In the county of Onondaga, four ;
In the county of Ontario, two ;
In the county of Orange, three ;
In the county of Orleans, one ;
In the county of Oswego, two ;
In the county of Otsego, three ;
In the county of Putnam, one ;
In the county of Queens, one ;
In the county of Rensselaer, three ;
In the county of Richmond, one ;
In the county of Rockland, one ;
In the county of Saratoga, two ;
In the county of Schenectady, one ;
In the county of Schoharie, two ;
In the county of Seneca, one ;
In the county of St. Lawrence, three ;
In the county of Steuben, three ;
In the county of Suffolk, two ;
In the county of Sullivan, one ;
In the county of Tioga, one ;
In the county of Tompkins, two ;
In the county of Ulster, two ;
In the county of Warren, one ;
In the county of Washington, two ;
In the county of Wayne, two ;
In the county of Westchester, two ;

Hamilton
county.

In the county of Wyoming, one;
In the county of Yates, one.

§ 2. For the purpose of electing members of Assembly, the county of Hamilton shall be considered a part of the county of Fulton; and the other counties of this State shall separately elect the members of Assembly, to which they shall be respectively entitled.

§ 3. This act shall take effect immediately.

CHAP. 45.

AN ACT to amend the law in relation to common schools.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Indian children
not to be
enumerated.

§ 1. It shall not hereafter be lawful for the trustees of any school district in this state, to enumerate in their annual reports, any Indian children between the ages of five and sixteen years, residing in said districts, who shall not have attended the school of said district for at least three months during the year preceding the date of such report.

Duty of town
superintend-
ents.

§ 2. It shall be the duty of the town superintendent of any town in which a school for the instruction of any Indian children in the elementary branches of education shall have been maintained, under the charge of a competent teacher for at least four months during the preceding year, to apportion and pay over to the teacher or teachers of such school or schools, on the written consent of the peace-makers for the Indians residing on the reservation on which such children reside, such part of the public money as shall be in proportion to the number of such children who shall have been so instructed for an average period of three months; to be paid on satisfactory evidence that the provisions of this act have been substantially complied with.

§ 3. This act shall take effect immediately.

CHAP. 46.

AN ACT to confirm certain trusts therein specified.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trusts con-
firmed.

§ 1. The trusts declared in and by a certain deed or declaration of trusts executed by James Wadsworth, James

S. Wadsworth, Elizabeth Wadsworth, William W. Wadsworth and Martin Brimmer, bearing date the twentieth day of April, in the year of our Lord one thousand eight hundred and forty-three, and recorded in Livingston county clerk's office in Liber 28 of Deeds, page 266, &c., and relating to certain real and personal estate in the town of Geneseo, granted by the said James Wadsworth deceased, for the promotion of the moral and intellectual instruction of the young, the diffusion of science and literature, and for the public benefit, are hereby confirmed; and it shall be lawful to execute the same, and to appoint new trustees in the manner in the said deed provided, and the property conveyed by the said deed of trust shall be exempted from taxation in like manner as the property of public libraries of the State of New-York.

§ 2. This act shall take effect immediately.

CHAP. 47.

AN ACT authorizing the trustees of school district number ten, in the town of Littlefalls, to borrow money to build a school house.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The trustees of school district number ten, in the town of Littlefalls, are hereby authorized to borrow money, on the credit of said district, to purchase a site and build a new school house thereon: the amount so to be borrowed not to exceed two thousand dollars. Money may be borrowed.

§ 2. The amount so borrowed shall be re-paid in eight equal annual instalments, together with interest on the whole sum unpaid, to be paid in each year; and the trustees of said district shall, each and every year assess, upon the taxable property in said district, in the manner now required to make assessments, the instalment of principal and interest for the ensuing year, and the sum so assessed shall be collected as other district taxes and assessments are collected. When and how repaid.

§ 3. All the moneys so borrowed, and all the moneys so assessed and collected, shall be used and applied for the purposes by this act contemplated, and for no other use or purpose; and any person into whose hands any such funds shall come, who shall lend the same, or in any manner convert the same to his own use, shall be deemed guilty of embezzlement. Money how applied.

LAWS OF NEW-YORK.

trustees to
give bond.

§ 4. Before the said trustees shall receive any money, which by this act they are authorized to borrow, they shall severally give bonds, with adequate sureties, to be approved by the town superintendent, to the people of the state of New-York, conditioned for the faithful application of all moneys they shall severally so receive.

§ 5. This act shall take effect immediately.

CHAP. 48.

AN ACT to confirm the proceedings of the Joint School District, composed of district number five in Adams, and district number six in the town of Henderson, in the county of Jefferson.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Proceedings
confirmed.

§ 1. All the proceedings of the joint school district, composed of district number five of the town of Adams, and of district number six of the town of Henderson, in the county of Jefferson, and also all the votes and resolutions of said district, and all and singular the acts and proceedings of the trustees of such joint district, shall be and the same are hereby ratified and confirmed.

§ 2. This act shall take effect immediately.

CHAP. 49.

AN ACT to change the name of Augusta Smith to Augusta Eliza French.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Name chan-
ged.

§ 1. The name of Augusta Smith; the adopted daughter of Salphronius H. French, of the county of Broome in the state of New-York, is hereby changed to Augusta Eliza French, by which latter name she shall be hereafter known and called.

§ 2. This act shall take effect immediately.

CHAP. 50.

AN ACT to extend the time for the collection of taxes in certain wards of the city of Albany.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. If the collectors of the fifth, sixth, seventh and tenth wards of the city of Albany, shall, before the expiration of the time now allowed by law, pay over all moneys in their hands, and shall renew their bonds in such an amount as shall be required by the supervisors of their respective wards, the time for the collection of taxes in said wards, shall be extended until the first day of June next. Time extended.

§ 2. This act shall take effect immediately.

CHAP. 51.

AN ACT to annex the towns of Eagle, Pike, and a part of Portage to the county of Wyoming.

Passed April 1, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The towns of Eagle, Pike, and all that part of the town of Portage, in the county of Allegany, lying on the west side of the Genesee river, bounded as follows : On the east by the Genesee river ; on the south by a line running due easterly from the south line of the town of Pike, until it intersects the Genesee river ; and west and north by the original lines of said town, from and after the passage of this act, shall be and the same are hereby annexed to the county of Wyoming. Territory annexed to Wyoming county.

§ 2. The territory hereby taken from the said town of Portage, and three quarters of a mile of territory, being one tier of lots as surveyed by the Holland Land Company, from the east side of the said town of Pike, shall, from and after the passage of this act, be a separate town, by the name of the town of Genesee Falls ; and the first town meeting therein shall be held at the house of Anson Tinkham, on the second Tuesday of April next, to commence at ten o'clock in the fore-

noon, for the purpose of electing all necessary town officers for said town of Genesee Falls.

Town meeting in Portage.

§ 3. The said town of Portage shall hold a town meeting on the said second Tuesday of April next at the house of Philip Burroughs, in the said town, to commence at ten o'clock in the forenoon, for the purpose of electing town officers to fill the offices made vacant in the said town, in consequence of the passage of this act.

Part of Portage annexed to Hume.

§ 4. All the residue of the town of Portage lying west of the Genesee river, shall, from and after the passage of this act, be annexed to the town of Hume in the county of Allegany.

Town officers in Eagle and Pike.

§ 5. All the town officers of the towns of Eagle and Pike, in office when this act shall take effect, and the justices of the peace residing within the territory hereby taken from the said town of Portage, and annexed to the said county of Wyoming, shall remain officers of their towns, with the same tenure and jurisdiction in and for the county of Wyoming which they had or possessed in and for the county of Allegany before the passage of this act.

Duty of the clerk of Allegany co.

§ 6. The clerk of the county of Allegany shall, immediately after the passage of this act, make and transmit to the clerk of the county of Wyoming, to be filed in his office, a certificate of all the town officers of the towns of Pike and Eagle, and of the justices of the peace residing in the territory hereby taken from the said town of Portage, and annexed to the said county of Wyoming, whose names are filed or kept in his office ; which certificate when so filed, or a copy thereof certified by the clerk of Wyoming county, shall be evidence in all cases with the like force and effect as his certificate would be if said officers had been elected or chosen in their respective towns in the county of Wyoming after the passage of this act.

Comm'rs of loans to transcribe mortgages and minutes.

§ 7. The commissioners of loans of Wyoming county shall have access to the books and minutes of the loan commissioners of Allegany county, and shall, within three months after the passage of this act, transcribe and enter, or cause to be transcribed and entered, in a book or books, all mortgages and minutes contained in the first mentioned books, so far as the same shall relate to, and the lands mortgaged may be situated in, the territory hereby annexed to the county of Wyoming at the cost and expense of the said county of Wyoming, to be audited and paid by the board of supervisors of the said county of Wyoming ; and said mortgages and minutes, when so transcribed, shall have all the force and validity as if originally entered in the book or books in which they shall be transcribed as aforesaid ; and the duties and authority of the commissioners of loans of Wyoming county over said mortgages,

shall be the same in all respects as if said mortgage had been originally given in said county of Wyoming.

§ 8. The passage of this act shall not be construed so as to interfere in any manner with any crime or misdemeanor committed before the passage of this act, in the territory hereby annexed to the county of Wyoming or in the prosecution thereof, or with any civil action or proceeding already commenced in any court of law or equity. Savings clause.

§ 9. This act shall take effect immediately.

CHAP. 52.

AN ACT for the relief of Simeon Rogers.

Passed April 2, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal appraisers are hereby directed to re-appraise the damages sustained by Simeon Rogers, to his mills at Chenango Forks, by the construction of a dam by the state, across the Chenango river, above his said mills, and diverting the water therefrom for the use of the Chenango canal, taking into consideration, the benefits, if any, derived to the said Simeon Rogers, from the construction of the said canal. Damages to be re-appraised.

§ 2. Such appraisal shall be made subject to an appeal to the canal board as in other cases, and the sum which shall be awarded on account of said damages, shall be paid by the commissioners of the canal fund, out of any monies, now or which may hereafter be in their hands, not otherwise appropriated. Subject to appeal.

§ 3. All appraisals and awards heretofore made in relation to the subject matter of this act, to the said Simeon Rogers, are hereby vacated and declared void, and all acts heretofore passed for his relief are hereby repealed. Former appraisements and acts repealed.

§ 4. This act shall take effect immediately.

CHAP. 53.

AN ACT for the relief of Cyril Carpenter, Isaac Josleyn, and Isaac Barnes, now or late trustees of district number ten in the town of Sweden.

Passed April 2, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Special
meeting to be
called to
raise money
by tax.

§ 1. The trustees of school district number ten in the town of Sweden, in the county of Monroe, are hereby authorized and required, within sixty days after the passage of this act, to call a special meeting of the inhabitants of said district, in the same manner as by law other special district meetings are now to be called, and at such special district meeting it may and shall be lawful for the inhabitants of said district, duly qualified to vote at a special district school meeting, to raise a tax, to be assessed upon the taxable property of said district, of two hundred and thirty-eight dollars and forty-five cents, with lawful interest, from the ninth day of October, 1844, and in case such meeting shall vote to raise such tax, it is hereby required to be apportioned and collected in the same manner as other taxes are by law required to be apportioned.

Money to be
paid to C.
Carpenter.

§ 2. The moneys collected under and by virtue of this act, shall be paid over when collected to Cyril Carpenter, Isaac Josleyn and Isaac Barnes, to remunerate them for moneys paid in the defending of a certain suit brought against them as trustees of said district, by one Francis Howard, and in satisfaction of a judgment obtained against them in said suit, in amounts proportionate to the sums advanced and paid by said persons respectively, such proportions to be settled and fixed by the trustees of said district.

§ 3. This act shall take effect immediately.

CHAP. 54.

AN ACT for the relief of the estate of James Dobbin,
deceased.

Passed April 2, 1846.

*The People of the State of New-York, represented in
Senate and Assembly, do enact as follows :*

§ 1. The acting executors of the last will and testament of James Dobbin, deceased, or the survivor or survivors of them, are hereby authorized to exchange a part of the premises owned by said James Dobbin at the time of his death, situated in the twelfth ward of the city of New-York, with the mayor, aldermen and commonalty of the city of New-York, so that the property belonging to the estate of the said James Dobbin, deceased, may be bounded by the streets laid out by said corporation, and to give and receive the requisite deeds for that purpose. Exchange of premises may be made

§ 2. The lands received in exchange by said executors shall be held and treated in all respects as if owned by said James Dobbin at the time of his death, and subject to the objects and trusts declared in the last will and testament of the said James Dobbin, deceased. Effect of such change.

§ 3. No exchange authorized by this act shall be made, except on an order of the Chancellor, or Vice-Chancellor of the first circuit, to be made on the application or petition of such executors, or the survivor or survivors of them, satisfactorily showing that the same will be advantageous to the parties interested in the estate of said deceased, and upon their giving such security as shall be approved by the said Chancellor or Vice-Chancellor, for the faithful execution of the powers conferred by this act. Order of chancellor necessary.

§ 4. This act shall take effect immediately.

CHAPTER 55.

AN ACT authorising the supervisors of the county of Schoharie, to borrow money for the erection of a new court house and jail in the said county.

Passed April 3, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Loan may be made.

§ 1. The comptroller is authorized to loan to the county of Schoharie, the sum of ten thousand dollars, out of any moneys in the treasury, belonging to the capital of the common school fund.

Warrant to be drawn on receiving bond.

§ 2. The comptroller shall draw his warrant on the treasurer for the said sum of ten thousand dollars, in favor of the treasurer of the county of Schoharie, on receiving from the treasurer of the said county his official bond to repay the same, in ten equal annual instalments. The first instalment, with interest on the whole sum, to be paid on the first day of March eighteen hundred and forty seven, and the residue in nine equal annual instalments thereafter with interest annually.

Money how to be applied.

§ 3. The money so to be loaned as aforesaid, shall be applied to the erection of a court-house and jail for said county, and the clerk's office if necessary, and the necessary fixtures and furniture for the same; the said court-house and jail shall be separate buildings, and be erected (together with the clerk's office, in case the erection of said office becomes necessary, by a change of the site of said buildings,) on such site as shall be fixed and established by the commissioners hereinafter named, or a majority of them in case all of said

Commissioners.

commissioners cannot agree; and Abraham A. Post, of the county of Ontario, William Duer, of the county of Oswego, and Alexander H. Buel, of the county of Herkimer, are hereby appointed commissioners to locate such site; whose duty it shall be to meet at the clerk's office in said county on the first Tuesday of May next, or on such other day in the said month of May as they shall appoint, and proceed to establish and fix the site for such court house, jail or clerk's office: and the decision of the said commissioners or any two of them shall be final and conclusive in the premises; and the said commissioners shall be entitled to receive three dollars per day each for every day they may be necessarily employed in such service, together with all their reasonable expenses; which sum shall be levied, collected and paid as part of the contingent expenses of said county; and a certificate of the

determination of said commissioners or a majority of them, fixing said site shall be signed by the commissioners making the same and filed in the clerk's office of said county.

§ 4. The supervisors of the said county shall meet at the clerk's office of said county, within ten days after the determination of the said commissioners shall have been filed as aforesaid; notice of which meeting shall be given by the clerk of the board of supervisors. Supervisors to meet.

§ 5. The said supervisors or a majority of them, when so convened, shall appoint three discreet and proper persons, who are residents of the said county, who shall be denominated a building committee; and whose duty it shall be forthwith to proceed in the erection of said court-house and jail and clerk's office if necessary, in such manner and upon such plan as they or a majority of them shall deem proper, and to make all necessary contracts for that purpose; but the aggregate amount of said contracts shall not exceed the sum of ten thousand dollars, unless with the assent of a majority of the board of supervisors. Building committee to be appointed.

§ 6. The said building committee, before entering upon their duties, shall take the usual oath of office before the clerk of said county, and shall file in the office of the said clerk a joint and several bond to the treasurer of the said county, signed by them and sufficient sureties, to be approved by the said treasurer, conditioned for the faithful performance of their duties as such building committee, and for the faithful application of such moneys as shall come into their hands for the purposes aforesaid. Committee to give bond.

§ 7. The said building committee or a majority of them, after having executed such bond as aforesaid, shall be authorized to draw from the treasury of said county the money so to be loaned as aforesaid, or so much thereof as may be necessary for the re-building of said court house and jail, and the clerk's office if necessary, and the necessary fixtures and furniture as aforesaid. May draw money from treasurer.

§ 8. The said building committee shall be entitled to receive as a compensation for their services, two dollars per day each, for all the time they shall be necessarily engaged in the performance of their duties under this act, to be levied, collected and paid as other county charges. They pay.

§ 9. The said building committee or the survivor or survivors of them, shall annually render to the board of supervisors of said county, until the said court house and jail, and the clerk's office if necessary, and the necessary fixtures and furniture are fully completed, an account of all their proceedings and expenditures in detail. To account annually.

§ 10. The board of supervisors shall at all times during the continuance of the office of such building committee, Supervisors may remove committee.

possess the power to remove the said building committee or any of them, for good cause to be shown to and approved by them, and entered upon the minutes of their proceedings, and to fill the vacancies in the said building committee, which may be occasioned by any cause whatsoever. Every person appointed to fill such vacancy, shall take the oath of office, and give to the treasurer of said county, such securities as are herein before prescribed.

Final account to be rendered.

§ 11. After such new court house and jail, and the clerk's office if necessary, and the necessary fixtures and furniture shall be completed, the said building committee shall render to the said board of supervisors a full account of all their proceedings and expenditures, and shall make a full settlement with the said board; and when such settlement shall have been made, and the accounts adjusted to the satisfaction of said board, and not before, the bonds given by said building committee or any of them shall be cancelled.

Money to be raised by tax

§ 12. The board of supervisors of said county shall cause to be levied and collected by tax upon the real and personal estate in said county, from time to time, such sum or sums of money as may be necessary to discharge and satisfy the bond to be executed by the treasurer of said county, to the comptroller of this state, for the money so to be loaned as aforesaid.

Vacancies how supplied

13. In case of the sickness or death of any or either of the said commissioners, or in case of their neglect or refusal to act as such, the governor shall appoint some other proper person or persons residing in the same county or counties, in which such commissioner or commissioners so neglecting or refusing to serve shall reside, to fill the vacancy or vacancies so occasioned: and thereupon the said commissioners shall have the right to designate any day for their meeting to perform the duties imposed by this act, not beyond the first day of July next.

§ 14. This act shall take effect immediately.

CHAP. 56.

AN ACT *changing the time of holding the circuit courts and courts of oyer and terminer in the county of Fulton.*

Passed April 3, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Terms.

§ 1. The circuit court and court of oyer and terminer for the county of Fulton, shall be held in the year eighteen hun-

dred and forty-six, on Tuesday the nineteenth day of May, and on Tuesday the twenty-fourth day of November, instead of the times appointed by the circuit judge of the fourth circuit.

§ 2. This act shall take effect immediately.

• CHAP. 57.

AN ACT to confirm the proceedings of the town meeting held in the town of Southfield, in the county of Richmond.

Passed April 3, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The proceedings of the officers and electors of the town of Southfield, in the county of Richmond, at and in conducting the town meeting in said town, on the tenth day of February last and in canvassing the votes and declaring and certifying the result thereof, are hereby confirmed and declared valid, and of the same force and effect, as if such proceedings had been in all things conducted according to the provisions of the statute regulating the manner of conducting town meetings in this state ; and the supervisor, town clerk, assessors, commissioners of highways, justice of the peace, superintendent of common schools, constables, collector and all other officers elected at said town meeting, in and for the said town, and each and every of them, are hereby authorised, and it shall be lawful for them and each and every of them, within fifteen days after the passage of this act, to take their and each of their respective oaths of office, make and file their and each of their respective official bonds, and enter upon the discharge of their respective duties as such officers, in the same manner, and with the same authority and privileges, and subject to the same penalties and obligations, and for the same length of time as if they had respectively been duly elected to such respective offices at a regular town meeting conducted in all respects according to law, subject however to the restrictions, qualification and exceptions contained in the second section of this act. Proceedings confirmed.

§ 2. Nothing in the first section of this act contained shall be construed to apply to any or either of the officers therein named or referred to, in whose place any other person shall have been elected or appointed in the manner provided by law since the time of holding said town meeting. Saving clause.

§ 3. This act shall take effect immediately.

CHAP. 58.

AN ACT to erect the towns of Wright and Esperance from the town of Schoharie.

Passed April 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Town of
Wright
erected.

§ 1. All that part of the town of Schoharie bounded as follows, to wit : Commencing at the town line between the town of Schoharie and the town of Duanesburgh, in the county of Schenectady, at the north-east corner of the third allotment of Lawyer and Zimmer's patent, and running thence along the easterly line of said patent to the south-east corner thereof ; from thence to the head of a brook known by the name of the Lousekill ; thence along the same to where it now empties into the Foxes creek ; thence down the said Foxes creek twenty chains ; thence south five degrees west, to the division line between the towns of Schoharie and Middleburgh ; thence along the same easterly to the county of Albany ; thence northerly along the same, and westerly along the south bounds of Duanesburgh to the place of beginning, shall constitute a new town by the name of Wright.

Town of Es-
perance
erected.

§ 2. All that part of the town of Schoharie bounded as follows, to wit : Commencing at the northwest corner of the third allotment of Lawyer and Zimmer's patent on the division line between the towns of Schoharie and Duanesburgh, and running thence to the centre of the mouth of the Cobleskill creek ; thence to the southeast corner of the town of Carlisle ; thence along the easterly line of the said town of Carlisle, to the southerly bounds of Montgomery county ; thence along the same to the Schoharie creek ; thence up the said creek and along the division line between the said towns of Schoharie and Duanesburgh to the place of beginning, shall constitute a new town by the name of Esperance.

First town
meetings.

§ 3. The first town meeting shall be held in the said town of Wright, at the house of Reuben Lawrence, on the third Tuesday of May next, at ten o'clock in the forenoon, and the first town meeting in the town of Esperance, shall be held at the house of Nicholas M. Larue, on the third Tuesday of May next, at ten o'clock in the forenoon, and thereafter on the same day that the annual town meetings of the several towns in the county of Schoharie are held, and at such places as a majority of the electors in the town shall designate according to the Revised Statutes.

§ 4. All the remaining part of said town of Schoharie shall be and remain a separate town by the name of Schoharie, and a special town meeting shall be held on the third Tuesday of May next, at ten o'clock in the forenoon, at the town house, to fill the vacancies that are made in consequence of the division of said town. Town of Schoharie to remain.

§ 5. Simeon Morgan, Jacob J. Barton and Robert Forsythe, or any two of them may preside at the first town meeting in said town of Wright, and Asabel Billings, David Phelps and James McMaster, or any two of them, may preside at the first town meeting in said town of Esperance, and shall possess full power to appoint a clerk and keep the polls, as if they were justices of the peace of the town. Persons to preside.

§ 6. All town officers of the now town of Schoharie, shall be and they are hereby made, and shall remain officers of the respective towns hereby created, wherein they shall respectively reside; and they shall hold their offices for such time as by law they now hold such offices. Town officers.

§ 7. This act shall take effect on the first day of May next.

CHAP. 59.

AN ACT to provide for the payment of the expenses of witnesses on the trial of indictments in certain cases.

Passed April 6, 1846,

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. When any person shall attend a circuit court on the trial of an indictment removed from any court of oyer and terminer into the Supreme court, as a witness in behalf of the people of this state, upon the request of the public prosecutor or upon a subpoena, or by virtue of a recognizance for that purpose; and it shall appear that such person has come from any other state or territory of the United States, or from any foreign country, or that such person is poor, the judge presiding at such court may, by an order in the minutes thereof, direct the county treasurer to pay such witness such sum of money as shall seem reasonable for his expenses, which order shall be of the same effect, and upon which the same proceedings shall be had as if the same had been made by a court of oyer and terminer or a court of general sessions, under the thirteenth section of title eight, chapter two and part four of the Revised Statutes. Pay of witnesses.

§ 2. This act shall take effect immediately.

CHAP. 60.

AN ACT for supplying the Capitol with pure and wholesome water.

Passed April 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Filtering cistern to be made.

§ 1. The trustees of the capitol are hereby authorised and directed, to procure a filtering cistern, to be placed in the capitol yard, for the purpose of supplying the capitol with pure and wholesome water; the expense thereof to be paid by the treasurer on the warrant of the Comptroller.

§ 2. This act shall take effect immediately.

CHAP. 61.

AN ACT to incorporate St. John's College, Fordham.

Passed April 10, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. Jacob Harvey, Peter A. Hargous, John McKeon, James R. Bayley, John Harley, John McCloskey, William Starrs, Hugh Kelly and David Bacon, and their successors, are hereby constituted a body corporate, by the name of St. John's College, Fordham; the said corporation to be in all respects an university, and its object the promotion of education. The said corporation shall have perpetual succession, with power to sue and be sued, to make and use a common seal, and alter the same at pleasure.

Trustees.

§ 2. The persons named are hereby appointed trustees of the said corporation, of whom six members shall constitute a quorum for the transaction of business.

Professors.

§ 3. The said board of trustees shall appoint the professors, and such other instructors as they may deem necessary, subject to removal, by vote, of the members of the board.

Powers.

§ 4. The corporation hereby created shall possess the powers and be subject to the provisions contained in article second, title first of the fifteenth chapter, of the first part of the Revised Statutes, so far as the same are applicable.

Diplomas may be granted.

§ 5. The said corporation may grant to students under its charge, diplomas or honorary testimonials, in such form as it

may designate. It may also confer such literary honors, degrees and diplomas, as are usually granted by any university, college or seminary of learning in the United States.

§ 6. Diplomas granted by the said corporation shall entitle the possessor to the immunities and privileges allowed by usage or statute to the possessors of like diplomas, from any college or seminary of learning in the state. Effect of diplomas.

§ 7. The corporation shall be subject to the visitation of the regents of the university of this state, in the same manner and to the same extent, as the various colleges in this state. College subject to visitation of regents.

§ 8. The corporation hereby created shall possess the powers and be subject to the provisions, contained in the third title, of the eighteenth chapter, of the first part of the Revised Statutes, so far as the same are applicable and have not been repealed. General powers.

§ 9. The legislature may at any time alter or repeal this act. Right to repeal.

§ 10. This act shall take effect immediately.

CHAP. 62.

AN ACT *in relation to duties on goods sold at public auction and to the bonds of auctioneers.*

Passed April 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All goods, wares and merchandise and every other species of personal property, which shall at any time be exposed to sale by public auction within this state, with the exceptions mentioned in the second section of this act, and in the fifth section of title one chapter seventeen part one of the Revised Statutes shall be subject, each and every time they shall be struck off, to duties at the following rates, namely: Goods sold to be subject to duty.

1. All wines and ardent spirits, foreign or domestic, at the rate of one dollar on every one hundred dollars: Amount of duties.

2. All goods, wares, merchandise and effects, imported from any place beyond the Cape of Good Hope, at the rate of fifty cents on every one hundred dollars:

3. All other goods, wares, merchandise and effects, which are the production of any foreign country at the rate of seventy-five cents on every one hundred dollars:

4. The duties shall be calculated on the sums for which the goods so exposed to sale, shall be respectively struck off,

and shall in all cases be paid by the person making the sale.

Goods and
articles not
liable to du-
ties.

§ 2. No auction duties shall be payable upon the following goods and articles:

1. Ships and vessels:

2. Utensils of husbandry, horses, neat cattle, hogs and sheep:

3. Articles of the growth, produce and manufacture, of the United States, except distilled spirits.

Accounts to
be rendered.

§ 3. The account required by law from every auctioneer shall hereafter be rendered semi-annually, on the first Mondays of July and January in each year.

Bond.

§ 4. The bond required by law from every auctioneer shall be renewed on or before the first Monday of January in each and every year.

Duty of auc-
tioneers in
New-York.

§ 5. Every auctioneer in the city of New-York shall, within ten days after the bond required by law shall have been executed, and the certificate required by law endorsed thereon, file a copy thereof, and also a copy of said certificate, certified by the officer taking the bond, with the clerk of the city and county of New-York.

Duty of
county clerk.

§ 6. The clerk of the city and county of New-York shall keep a book or books, with an index alphabetically arranged, in which he shall cause to be recorded every bond so filed, for which he shall be entitled to a fee of fifty cents for every bond so filed, to be paid by the party executing such bond.

Penalty for
neglect.

§ 7. Every auctioneer neglecting to file such certified copy within the time required by law, shall forfeit for every such neglect the sum of one hundred dollars, such penalty to be sued for and recovered by the district attorney, and when recovered to be paid into the treasury of the State.

Penalty for
selling with-
out filing
bond.

§ 8. Any person who shall act as auctioneer in selling any goods liable to auction duties, without filing the bonds required by law, or who shall neglect to make or render the accounts, or to pay over the duties required by law, shall be deemed guilty of a misdemeanor and punished by imprisonment, not exceeding one year, or by fine, not exceeding one thousand dollars, or by both such fine and imprisonment.

Provision re-
specting da-
maged goods

§ 9. To entitle any goods, wares or merchandize, or other property sold at auction in the city and county of New-York, after the passage of this act, to an exemption from the payment of auction duties to the State, as goods damaged at sea upon the voyage of importation, the auctioneer shall be furnished before sale with a proper certificate from the board of port wardens of the port of New-York, that such goods were examined by a member of that board, at the proper time and in the proper manner, and that they were damaged at sea upon the voyage of importation, so as in the opinion of said board of wardens to be entitled to be sold

at auction as damaged goods, and be exempt from the payment of auction duties ; and also with a statement, upon oath of the president or secretary of the Marine Insurance Company in the city and county of New-York, in which said goods shall have been insured, in case any insurance shall have been effected on said goods, stating the fact of insurance of the goods in such company and the amount insured thereon, which said certificates shall be by the said auctioneer exhibited publicly at the said sale, upon the demand of any port warden, or any other person interested in the said goods, or in the sale thereof; and without such certificates duly furnished to the auctioneer employed to sell the same, all such goods shall, from and after the passage of this act, be charged with the same auction duties as like goods are subject to, which are not damaged or claimed to be so.

§ 10. Sections first and fourth of title first chapter seven-^{Repeal.}teenth part first of the Revised Statutes, and all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

§ 11. This act shall take effect immediately.

CHAP. 63.

AN ACT to amend the charter of the Gilboa and Potter's Hollow Turnpike Road Company.

Passed April 11, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The time for completing the Gilboa and Potter's Hollow Turnpike road, is hereby extended three years from the eighth day of April, eighteen hundred and forty-seven. ^{Time extended.}

§ 2. Said company are hereby authorized to vary the route of said road from where it is now laid, not exceeding twenty-five rods in any place between the village of Gilboa and the now dwelling-house of William Kingsley of the town of Broome, and not exceeding half a mile at any place between said Kingsley's house and the village of Potter's Hollow ; provided the length or elevation of said road shall not be increased. ^{Route may be varied.}

CHAP. 64.

AN ACT for the preservation of game in the county of
Saratoga.

Passed April 13, 1846.

*The People of the State of New-York, represented in
Senate and Assembly, do enact as follows :*

Partridges &
woodcock
not to be kill-
ed.

§ 1. No person shall kill any partridge in the county of Saratoga, between the first day of January and the first day of August, nor shall any person kill any woodcock in the said county between the first day of January and the tenth day of July.

Penalty for
killing,

§ 2. Whoever shall offend against either of the provisions of the first section of this act shall forfeit the sum of five dollars.

And expos-
ing for sale.

§ 3. Every person who shall expose for sale any partridges or woodcock in the said county, or shall have the same in his possession in the said county during the time when the killing of such game is prohibited by law, shall be deemed guilty of killing the same game within the time prohibited.

Penalties
how recover-
ed.

§ 4. Any person may in his own name prosecute for and recover either of the penalties specified in this act, for himself and the overseers of the poor of the town where the offence is committed, and on recovery shall be entitled to retain one-half of said penalty, and the other half after deducting one-half the expenses of the prosecution shall be paid to the said overseers for the support of the poor of the said town.

§ 5. This act shall take effect thirty days after its passage.

CHAP. 65.

AN ACT to amend an act entitled "*An act to enforce the laws and preserve order,*" passed April 15, 1845.

Passed April 14, 1846.

*The People of the State of New-York, represented in
Senate and Assembly, do enact as follows :*

Pay to be al-
lowed to
guards.

§ 1. The eighth section of the "Act to enforce the laws and preserve order," passed April 15, 1845, is hereby amended so as to read as follows: such guard shall receive as a

compensation for their services, such per diem allowance as shall have been agreed upon at the time of their employment, or at any time afterwards, not exceeding, however, the sum of one dollar per day for each private, and for each officer such sum as shall have been agreed on, not exceeding two dollars per day ; and for each horse employed singly not exceeding one dollar per day, and for each two horse team and driver not exceeding three dollars per day.

§ 2. All the necessary expenses incurred by the sheriff of the county of Delaware, from and including the seventh day of August, 1845, to and including the twenty-second day of December, 1845, in the execution of process and preservation of order pursuant to the act hereby amended in the protection of the jail or prison in said county, in the arrest, detention and safe-keeping of any prisoner or prisoners, or to enforce any process, judgment, or order of any court in said county, and in procuring the necessary arms and munitions for such purposes, including a compensation for the persons, horses and teams employed, at the following rates, to wit : For each person the sum of eighty-seven and half cents per day ; for each horse, the sum of sixty-two and a half cents per day ; for each two horse team, including a wagon or other vehicle, a reasonable compensation, not exceeding the sum of three dollars per day ; for each one horse team, including a wagon or other vehicle, a like reasonable compensation, not exceeding the sum of one dollar and twenty-five cents per day, together with the necessary expenses incurred for the support and subsistence of the men and horses, shall be audited and allowed by the comptroller to the said sheriff, and when so audited and allowed, he shall draw his warrant for the payment thereof on the treasurer, and the treasurer shall pay the same out of any moneys not otherwise appropriated ; and the county of Delaware shall be released and discharged therefrom.

§ 3. The treasurer of the county of Delaware, with the aid of the clerk of the board of supervisors of said county, shall forthwith, after the passage of this act, under their respective oaths, report to the comptroller the whole amount audited and allowed by the said board of supervisors to the said sheriff, for expenses provided for in the second section of this act, between the sixth day of August, 1845, and the twenty-third day of December, 1845 ; and the name of each claimant, with the items of their respective bills within the time aforesaid ; and no portions of the said bills so audited by said board shall be again allowed by said comptroller, but the aggregate amount thereof shall be deducted from the sum chargeable by the comptroller to the said county, under the act entitled " An act relative to the expenses incurred in en-

Expenses of
sheriff to be
paid.

For persons,
horses and
wagons.

Duty of trea-
surer and
clerk of su-
pervisors of
Delaware co.

forcing the laws and preserving order in the counties of Delaware and Ulster," passed April 14th, 1845."

Time limited § 4. No account or claim shall be audited by the comptroller under this act, unless the same be presented within one year after the passage of this act.

§ 5. This act shall take effect immediately.

CHAP. 66.

AN ACT *in relation to the dissolution of common school districts.*

Passed April 15, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Legal liabilities how discharged.

§ 1. Whenever a school district shall be dissolved by consolidation or otherwise, it shall be the duty of the trustees of such district to make out all necessary rate bills and tax lists, and issue their warrants to the collector of such dissolved district, for the collection of all such sums of money as shall be necessary to discharge all legal liabilities of such district so dissolved, and to call special school meetings of the legal voters of such district, if need be, to raise money by tax, to discharge such demands; and the collector of such district or districts so dissolved, shall have power to execute such warrants in the same manner as though such district had not been dissolved.

§ 2. This act shall take effect immediately.

CHAP. 67.

AN ACT *to provide for the appointing of commissioners to open and improve the "Rock Island and Depeyster road" in the county of St. Lawrence.*

Passed April 16, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Three commissioners to be appointed

§ 1. The judges of the court of common pleas of the county of St. Lawrence, at the next or some subsequent session of said court, after the passage of this act, shall appoint three commissioners for the purpose and with the powers herein-after mentioned, and shall have power from time to time to fill any vacancy that may occur in the number of said

commissioners. The said commissiioners before entering upon the duties of their office, shall take an oath or affirmation well and faithfully to discharge the duties of their trust, and shall each of them enter into a bond to the people of the state, with one or more sureties, to be approved of by the first judge, or one of the other judges of said court, in the sum of two thousand dollars, conditioned for the faithful discharge of their duties, which bond shall be filed in the office of the county clerk of said county.

§ 2. The said commissioners shall cause to be re-surveyed, opened and repaired, the "Rock Island and Depeyster road," through the towns of Gouverneur, Dekalb and Depeyster, commencing at a point in the town of Gouverneur, where said road intersects the main road leading from the village in Gouverneur to Richville in Dekalb, and extending northeasterly to the point where said road intersects the state road in the town of Depeyster, near the Kellogg place, and the said commissioners shall have power to straighten said road where they shall deem it proper; and if by any alteration said road shall run through improved land, said commissioners may agree with the owners about the damages, if any, or have the same appraised and paid, as is provided in chapter sixteenth, title one, article four, of the first part of the Revised Statutes.

§ 3. The said commissioners, on or before the first day of October next, shall make or cause to be made and delivered to the supervisors of the several towns through which the said road passes, tax rolls and descriptions of the lands adjoining the road as follows: In that part of the town of Gouverneur, between the point of beginning, described in the second section of this act, and the point where said road crosses the Oswegatchie river, at the Rock Island bridge, all the land within half a mile of said road on each side thereof, in the remaining part of the town of Gouverneur, in the town of Dekalb, and in the town of Depeyster, all the land within one mile of said road on each side thereof, and shall therein give descriptions of the several lots embraced within those bounds, with the names of the inhabitants upon the lots which are occupied, which tax rolls and descriptions the several supervisors shall lay before the board of supervisors of said county at their next annual meeting: provided that no lands lying within half a mile of the state road in the town of Depeyster shall be included in such tax rolls and descriptions.

§ 4. The board of supervisors of said county, shall, as hereinafter directed, cause to be levied and raised upon the lands and taxable property of the inhabitants, and upon the unoccupied and non-residents lands embraced within the

bounds specified in such tax rolls, the sum of eight cents per acre; such sum to be levied and raised, one-half in the year one thousand eight hundred and forty-six, and the other half in the year eighteen hundred and forty-seven, at the annual session of the said board, in the same manner as other town charges are levied and raised. Said taxes shall be collected at the same time and in the same manner as other town charges are collected; and all moneys so collected shall be paid over to the commissioners to be appointed as hereinbefore provided, and returns of lands as non-resident, and other lands upon which the said taxes shall not have been paid, shall be made in the same manner to the county treasurer, and by him to the comptroller; and the same proceedings shall in all respects be had thereon, as in the cases of non-payment of town and county taxes; the county treasurer shall pay over all moneys coming into his hands by virtue of this act, to the said commissioners, to be by them expended according to the provisions of the same.

Money how
to be expen-
ded.

§ 5. The said commissioners shall faithfully expend the moneys received by them by virtue of this act, according to the provisions of the same, within two years from the first day of October next, and the money raised in each town shall be expended in the town where raised. The said commissioners shall be entitled to receive one dollar and fifty cents per day, respectively, for each day necessarily employed in the discharge of their duties under this act, to be deducted out of the money coming into their hands by virtue of the same; and they shall annually account to the board of supervisors of the said county for the faithful expenditure of all moneys coming into their hands as aforesaid, and be liable to an action upon their bond for any misapplication of the moneys or other neglect of duty.

§ 6. This act shall take effect immediately.

CHAP. 68.

AN ACT declaring Quaker Run Creek in the county of Cattaraugus, a public highway.

Passed April 17, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Part of creek
a highway.

§ 1. All that part of Quaker Run creek in the county of Cattaraugus from its junction with the Allegany river in the town of Cold Spring, to and including the distance of five

miles up said creek from the Allegany river, is hereby declared a public highway ; provided however, that the owner or owners of the adjoining lands may erect mills or other water works, so that the same shall not obstruct the navigation thereof ; and provided further, that nothing herein contained shall be construed to abridge any pre-existing private right.

§ 2. This act shall take effect immediately.

CHAP. 69.

AN ACT for the relief of Briggs Thomas and Eben Worden.

Passed April 17, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal board are hereby authorized and directed to hear and determine the claim of Briggs Thomas and Eben Worden, arising under their contract for the construction of section No. 17 of the Genesee-Valley canal, and award to them such sum as shall be just and equitable, in consequence of the work or material proving different from what was contemplated at the time the work was contracted for, or in consequence of any change of the line of said section after said contract ; and also to award them the amount, if any due them, for work done according to their contract prices.

Claim to be heard and determined.

§ 2. If in the opinion of said board, the material was wrongly classified, they shall award to the said Thomas and Worden, the sum they would be entitled to under their contract, had the material been properly classified.

Award to be made.

§ 3. The commissioners of the canal fund shall pay to the said Thomas and Worden, such sum as shall be awarded them under this act, out of any moneys belonging to the canal fund.

Payment to be made.

§ 4. This act shall take effect immediately.

CHAP. 70.

AN ACT for the relief of Edwin B. Strange, an alien.

Passed April 18, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

E. B. Strange
authorized
to hold and
convey real
estate.

§ 1. Edwin B. Strange, of the city of New-York, is hereby authorised to take, hold, convey, demise, devise, and otherwise dispose of any real estate which he may hereafter purchase, or otherwise acquire, in the same manner as if he were a citizen of the United States, and his title thereto shall not be affected by reason of his alienage ; but his right to purchase and acquire real estate, except in payment of pre-existing debts due to him, shall cease whenever his permanent residence in this State shall terminate ; but occasional or temporary absence from the State shall not deprive him of the rights granted by this act, nor shall a removal from this State invalidate his title to real estate before then acquired.

Subject to
taxes, &c.

§ 2. All real estate held by the said Edwin B. Strange, by virtue of this act, shall be subject to all duties, taxes, assessments and burdens, as if he were a citizen of the United States.

§ 3. This act shall take effect immediately.

CHAP. 71.

AN ACT to repeal chapter nineteen of the laws of eighteen hundred and forty-five, and to reduce the duty upon salt.

Passed April 20, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Repeal.

§ 1. Chapter nineteen of the laws of eighteen hundred and forty-five entitled "An act to amend an act entitled 'An act to increase the revenues of the state, by extending the market for salt, coal and lead,'" is hereby repealed.

Duty per
bushel.

§ 2. There shall hereafter be paid and collected upon all salt manufactured in this state a duty of one cent per bushel of fifty-six pounds weight, and all laws prescribing a higher rate of duty are hereby repealed.

§ 3. This act shall take effect immediately.

CHAP. 72.

AN ACT to amend the act entitled "*An act to incorporate the Eddyville Bridge Company,*" passed April 22, 1844.

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The time limited by the act entitled "*An act to incorporate the Eddyville Bridge Company,*" passed April 22, 1844, for building said bridge, is hereby extended to the first day of August, one thousand eight hundred and forty-seven. Time extended.

§ 2. The directors of the said company are authorized to alter the location of said bridge to any point not exceeding a quarter of a mile above, or a quarter of a mile below, the present location. Location may be altered.

§ 3. The said bridge, if built below the Eddyville dam, shall be built with a draw. Draw.

§ 4. The Legislature may at any time alter, amend or repeal this act. Right to repeal.

§ 5. This act shall take effect immediately.

CHAP. 73.

AN ACT authorizing trusts for the benefit of the owners and occupants of mill privileges on the Wynant's Kill.

Passed April 21, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows:

§ 1. Trusts of real property may be created for the benefit of persons owning or occupying mill privileges on the creek or stream called the Wynants Kill, in the county of Rensselaer, and the legal title and estate of any property so held in trust shall be vested in the trustees, to be named in the conveyances or declarations of trust, and in those who from time to time shall be substituted or designated as trustees, in the manner to be provided in such conveyances or declarations of trust. Trusts may be created.

§ 2. The annual value or income of the property so to be held in trust shall not exceed two thousand dollars: and the sole objects of the trusts shall be the improvement of said Annual value or income.

stream, by increasng the head of water and regulating the flow thereof for the supply of the mills and establishments on said stream, by forming reservoirs, connecting lakes and ponds with said streams, and constructing dams and gates at and below the outlets of such reservoirs, lakes and ponds, and by such other other works and improvements as will increase the usefulness of said stream for milling purposes.

Extent of
trusts.

§ 3. The trusts authorized by this act may be continued for such time as may be anecessary to accomplish the purposes for which they may be created.

§ 4. The Legislature may alter, modify or repeal this act.

CHAP. 74.

AN ACT to amend the act, passed May, 1841, authorizing colleges and other incorporated literary institutions to hold real and personal estate in trust, so as to allow the same to accumulate for certain specific purposes.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Amount of
income.

§ 1. The income arising from any real or personal property granted or conveyed, devised or bequeathed in trust to any incorporated college or other incorporated literary institution, for any of the purposes specified in the " Act authorizing certain trusts," passed May 14th, 1840, or for the purpose of providing for the support of any teacher in a grammar school or institute, may be permitted to accumulate till the same shall amount to a sum sufficient, in the opinion of the regents of the university, to carry into effect either of the purposes aforesaid, designated in said trust.

CHAP. 75.

AN ACT to authorize the first judge of the county of Erie, to appoint and hold special terms of the court of common pleas of said county.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Special
terms may
be appointed
and held.

§ 1. The first judge of the county courts of the county of Erie, is hereby authorized and empowered to appoint and

hold such special terms of the court of common pleas of said county, not exceeding three in each year, as he shall deem necessary and expedient, for the purpose of hearing and deciding all causes brought into said court by certiorari, and all all enumerated and non-enumerated motions arising in said court, and such terms shall be held by said first judge.

§ 2. The said first judge shall appoint the said terms by an order made and signed by him, and filed in the office of the clerk of the said county, and shall cause the same to be published one week in two of the daily newspapers printed in the city of Buffalo. By order of first judge.

§ 3. The said first judge shall have power to make all necessary rules and orders to regulate the practice of said court, at said terms not inconsistent with the laws of this state, and all rules and orders made in any cause, matter or proceeding pending in said court, and entered at said terms, shall have the same effect as if made at the regular stated terms thereof. Rules and orders.

§ 4. In case of a vacancy in the office of first judge or his absence from said county, or inability from sickness to act, any judge of the said court of the degree of counsellor in the supreme court, may hold said special terms, and shall in holding the same have the same power as is by this act conferred upon the first judge. Provision in case of vacancy.

§ 5. Each of the special terms authorized to be held by virtue of this act, shall and may be held until and including the fifth day after the commencement thereof. The said special terms shall be held at the court house of said county, and the clerk and crier of said court shall attend the same, but no other officer, except the judge holding the same, shall be required to attend said court, or be entitled to charge said county for any attendance thereon. Duration of each term.

§ 6. If the board of supervisors of said county shall at any annual meeting thereof by a resolution entered in their minutes, resolve that the holding of the said special terms are unnecessary or inexpedient, and shall cause their clerk to serve a copy thereof on said first judge, the said special terms shall not thereafter be held, or authorized to be held in said county by virtue of any of the provisions of this act. Power of board of supervisors.

§ 7. Any rule or order proper to be entered in the minutes of the court of common pleas of said county of Erie, on the decision of any cause, motion or other matter argued in said court, may be entered in such minutes by the clerk of said court in vacation on the written order or direction of the judge, or a majority of the judges present at the hearing thereof, with the like force and effect as though said rule or Rules and orders may be entered in vacation.

order had been made in court and entered in term during the sitting of said court.

§ 8. This act shall take effect immediately.

CHAP. 76.

AN ACT to annex lot number eight in the town of Virgil, in the county of Cortland, to the town of Cortlandville in said county.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Land annexed to Cortlandville.

§ 1. All that part of lot number eight, in the town of Virgil, in the county of Cortland, lying easterly of the Tioughnioga river, is hereby annexed to the town of Cortlandville in said county.

Virgil to remain.

§ 2. All the remaining part of the town of Virgil, shall remain a separate town, by the name of Virgil.

§ 3. This act shall take effect immediately.

CHAP. 77.

AN ACT to provide for the erection and establishment of a workhouse in the county of Erie.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Workhouse may be erected.

§ 1. The board of supervisors of the county of Erie, shall be and they are hereby authorised to cause to be erected at such place within the limits of said county as shall be designated in the manner hereinafter mentioned, a suitable building or buildings, to be called "The workhouse of the county of Erie," to be used for the safe-keeping and employment of vagrants, disorderly persons, and all prisoners under sentence or conviction, (except in those cases of conviction for a felony, in which the party convicted shall be sentenced to be punished by death or imprisonment in a state prison,) who shall be sentenced to confinement at hard labor or to solitary imprisonment by any court held in said county of Erie, or who may be authorized to be confined therein by any of the provisions of this act.

§ 2. The clerk of the said board of supervisors, on receiving a written request to that effect from any five members of the said board, shall immediately call a special meeting of such board; which shall, when called, be a legal meeting of such board, for all lawful purposes, as well as for the purpose of proceeding under this act. Such special meeting shall be called by the clerk, by sending by mail to each of the members of said board, a written notice of the time and place of such meeting, at least eight days before the day of such meeting, and publishing a copy of such notice at least six days before such meeting in two public newspapers in said county; but no such meeting shall be informal or illegal on account of any defect in such notice; if four fifths of the members of such board shall attend such meeting. The said board at such special meeting, or at the next annual meeting of such board, shall appoint three commissioners, who, or a majority of whom, after taking the constitutional oath of office, shall, without unnecessary delay, select a proper site for the location of said building or buildings, with proper grounds to be attached thereto, and make a conditional contract for the same, subject to the approval and confirmation of the said board; and to report such location and contract, together with a detailed plan for the construction, management and discipline of said workhouse, and the improvements of such grounds, and the erection of the necessary out-buildings; and also an estimate of the expense of the land for the site and the improvement thereof, and of the construction of the said workhouse and out-buildings, to the board of supervisors of said county at their next annual meeting. In case of a vacancy in the said board of commissioners by death, resignation, removal from said county, refusal or neglect to serve or otherwise, such vacancy shall be filled by an appointment by the first judge of said county, of Erie. The said commissioners shall receive for their services such sum as the board of supervisors shall allow, not exceeding three dollars for each day while actually employed in the discharge of their duties, and such expenses as shall be actually incurred by them in obtaining the necessary plans, estimates and information preparatory to the report to be made by them as aforesaid, such several sums to be paid by the said board of supervisors, and the amount thereof added to the sum to be raised by tax as hereinafter mentioned.

§ 3. Upon such report being made, the said board of supervisors shall examine the same and determine thereupon, and the said board of supervisors may alter, modify, reduce or increase the site, plan or expense of construction of said workhouse as specified in said report, in such manner as to them shall seem fit, expedient or necessary, and shall then de-

Special meeting of supervisors when to be called.

Commissioners.

Their pay.

Site and expense may be altered or modified.

termine whether they will authorise such commissioners to procure a site for said workhouse, and erect the same. The said commissioners, whenever they shall be empowered and directed so to do by the said board of supervisors, shall purchase or procure the lands necessary for the site of the said workhouse according to the directions and determination of such board, and shall thereupon proceed to construct the same, at such place and on such plan, in all respects, as the said board of supervisors shall, in manner aforesaid, have approved and directed; but before either the said commissioners shall enter upon the construction of said workhouse or be entitled to draw or receive any moneys for any of the purposes mentioned in this act, he shall file in the office of the county treasurer of the said county, a bond to the said county of Erie, executed by himself and two sufficient sureties, to be approved by the board of supervisors or said county treasurer, in the penal sum of ten thousand dollars, and conditioned for the full and faithful performance of his duties as such commissioner, and the due accounting to the board of supervisors of said county of Erie, at each annual meeting, for all moneys received by him as such commissioner; if any such bond shall be forfeited the same shall be prosecuted under the direction of said board of supervisors, and all sums recovered for the breach of the condition thereof, applied to the erection, completion and furnishing of said workhouse.

Workhouse
how managed
when
completed.

§ 4. The concerns and management of the said workhouse, when completed, shall be under the control and direction of the board of supervisors, through such commissioners and officers as they may appoint for such purpose; and such board of supervisors is hereby authorized to establish and adopt, from time to time, at any annual meeting of said board of supervisors, such rules for the regulation and management of said workhouse, and the support, employment and discipline of the persons confined therein, and to appoint such commissioners and other officers to take charge thereof, and prescribe their compensation and duties, as to them may seem proper, just and expedient, and generally to make all such by-laws, rules, regulations and ordinances in relation to the discipline, management and government thereof, as they shall deem expedient; but the person who shall be appointed principal keeper of said workhouse, shall hold his office for the term of three years, unless sooner removed by the said board for incompetency, improper conduct or other cause to be particularly assigned in writing, and entered on the minutes of said board, with the ayes and nays upon the adoption of the resolution for such removal. No such by-laws shall be finally adopted by said board on the same day on which the same

shall be first presented to said board for consideration, nor until the same shall have been considered and reported upon by a select committee appointed for that purpose.

§ 5. The said board of supervisors are hereby authorized to borrow, from time to time, on the credit of the county of Erie, such sum or sums of money as shall be necessary to defray all the expenses of procuring the site and completing the erection of said workhouse, outhouses, yard and appurtenances, and of procuring the necessary furniture and fixtures, and other things in and about the same; and it is hereby authorized and required to raise, levy and collect a sum sufficient to re-pay the principal sum so borrowed, in not less than five nor more than ten equal annual instalments, and also the interest which shall become due on the same, which shall be levied and collected on and from the taxable property in the county of Erie, in the same manner as other county charges are levied and collected; and the said board, or the county treasurer of said county, shall from time to time pay such drafts as may be drawn by the said commissioners, or a majority of them, for the cost of said site and erection of said workhouse, not exceeding the amount at which such cost may have been fixed and determined upon by said board, in case said board of supervisors shall have so fixed and determined the same. The county treasurer of said county, under the direction of the board of supervisors thereof, may execute to the person or persons of whom such moneys may be borrowed, such bond or bonds for the re-payment thereof, as may be necessary or proper; which bonds shall be binding upon the said county of Erie.

Supervisors may borrow money, and levy and collect a tax.

§ 6. The expenses of maintaining the said workhouse, over and above all receipts for the labor of persons confined therein, and for the support of prisoners therein, whose support is not chargeable to said county of Erie, shall be audited and paid by the said board of supervisors yearly at their annual meeting, and shall be raised, levied and collected as part of the ordinary expenses of the said county of Erie.

Expenses how to be paid.

§ 7. Whenever the said workhouse shall, in the opinion of the said commissioners, or a majority of them, be so far completed as to ensure the safe confinement and employment therein of persons intended to be confined therein, they shall make triplicate determinations thereof, under their hands and seals; one of which they shall file in the office of the clerk of the said county of Erie; one other they shall file in the office of the clerk of the recorder's court of the city of Buffalo; and the other they shall cause to be published in the several newspapers published in Erie county.

When the house is completed, determination to be filed.

§ 8. The court of oyer and terminer, or court of general sessions of the peace, or the recorder's court of the city of

Prisoners to be confined in the work-house.

Buffalo, which shall be first in session after the filing of the said determination, shall, by an order to be entered in its minutes, upon the motion of the district attorney for Erie county, direct all persons then confined in the jail of Erie county, and which by the terms of this act are authorized to be confined in said workhouse, to be transferred to said workhouse, and there to be confined until the term for which they were sentenced to be imprisoned in said jail shall have expired; and in said order shall be inserted the said determination at length; the names of the said persons respectively; the offence or cause for which they were committed; the court by which they were committed; the day of commitment; and the day on which the sentence will expire.

Duty of sheriff of Erie county.

§ 9. The clerk of the court in which said order shall be entered, shall cause two copies of said order to be made, and to be attested by his hand, and the seal of said court, which he shall deliver to the sheriff of Erie county: said sheriff shall forthwith transfer the persons named in said order to said workhouse, and shall deliver said persons, with one copy of said order, to the principal keeper of said workhouse, and take his receipt therefor; thenceforward the persons named in said order shall be detained and held to labor in said workhouse for the same term of time they would have been required to be detained in said jail if this act had not been passed; and the said sheriff shall from that time be discharged from all liability on account of said persons.

Vagrants, &c. may be sentenced to workhouse.

§ 10. After the said determination shall be published as herein before required, every court or magistrate in the county of Erie that shall be authorized by law to sentence or commit any person to the county jail of Erie county as vagrants, disorderly persons, or common prostitutes, or by virtue of a final sentence for any offence, or upon a final conviction on any account whatever, (except for contempt) may sentence such person to be confined in said workhouse; and in addition to any sentence now authorized by law to be pronounced in such case, may sentence such person to be confined at hard labor, or to solitary confinement, in whole or in part, or in part to each, at its discretion.

Prisoners may be confined in workhouse from other counties in the 8th district.

§ 11. After the said workhouse shall have been completed, the said board of supervisors of Erie county may contract with the board of supervisors of any other county in the present eighth senatorial district, upon such terms as may be agreed upon by said boards respectively, to receive into the said workhouse any person that may be sentenced to confinement therein by any magistrate or court of any such other county for such offences as such court or magistrate may, by law, have a right to sentence to confinement in the jail of the county in which such person may be sentenced; and any officer to

whom the process of commitment in such case may be delivered for execution, shall, by virtue of such process, convey such person to the said workhouse, and deliver him to the principal keeper thereof: and such keeper shall detain such person upon such sentence, and shall treat such person in the same manner as if he had been sentenced to like imprisonment therein by any court or magistrate in the county of Erie. After any such contract shall be made by the board of supervisors of said county of Erie, with the board of supervisors of any other county, and so long as the same shall remain in force, the courts and magistrates of such other county shall have the same power, jurisdiction and authority to sentence and commit persons to such workhouse as is or shall be possessed or rightfully exercised by the courts and magistrates of said county of Erie.

§ 12. The first judge of Erie county, the recorder of the city of Buffalo, and the district attorney of the county of Erie, or any two of them, may, in their discretion, make such order for the employment upon said workhouse, while the same is in a course of construction, of such persons as may, for the time being, be confined in the jail of Erie county, upon final sentence or summary conviction, or as disorderly persons, or vagrants, as they may deem beneficial to the county of Erie, and such order shall be in writing, and signed by them, and shall be carried into effect by the sheriff of said county.

Prisoners may be employed in building workhouse.

§ 13. The board of supervisors of said county of Erie shall be and they are hereby authorized, in their discretion, to appropriate any portion of the moneys arising from the sale of the poorhouse and farm of said county, or any part of said farm, under the act entitled "An act to authorize the board of supervisors of the county of Erie to sell and convey the poorhouse and farm attached thereto, belonging to the county of Erie, and invest the proceeds thereof," passed April 8, 1836, to the erection of such workhouse, or to the payment of any expense or debt incurred under the provisions of this act; and the said board may assign and transfer any mortgage or mortgages taken on such sale, with the bonds accompanying the sale on a sale thereof, to raise moneys to expend under the provisions of this act or as collateral security for any moneys authorized to be borrowed by the provisions of this act.

Appropriation of avails of poor house farm.

§ 14. This act shall take effect immediately.

CHAP. 78.

AN ACT to authorize a tax to be levied in the town of Canton, in the county of St. Lawrence, to build a town house.

Passed April 21, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Money may
be raised by
tax.

§ 1. The board of supervisors of the county of St. Lawrence, are authorized at their annual meetings in each of the years 1846, 1847 and 1848, to cause to be levied and collected upon the taxable inhabitants, and taxable property of the town of Canton, in said county, the sum of three hundred and thirty-three dollars and thirty-three and one-third cents in each of said years, to be levied and collected, as other town charges are.

To be paid
to B. Squire
and C. Aber-
nethy, commis-
sioners.

§ 2. Such moneys, when collected, shall be paid to Benjamin Squire and Cyrus Abernethy, of said town, commissioners hereby appointed for the expenditure of said moneys, in the erection of a town house for the use of said town.

Duty of com-
missioners.

§ 3. The above named commissioners shall faithfully expend said moneys in the erection of a suitable town house for the town of Canton, and have power to procure a lease or conveyance of a suitable site for the town house, the title to which shall be conveyed to the supervisor of the town and his successors in office.

They may
borrow mo-
ney.

§ 4. Said commissioners are hereby authorized, if they deem it advisable, to borrow in anticipation of the collection of said tax, any portion of the said sum to be raised by tax as aforesaid, upon the credit of said town, at an interest not exceeding seven per centum per annum, to be repaid out of the moneys to be raised by tax as aforesaid, and said commissioners shall account in writing to the town board of auditors, for the expenditure of the said moneys, which account shall be produced and read at the next annual town meeting of said town. Said commissioners shall be entitled to a compensation for their services actually rendered, not exceeding one dollar and fifty cents per day, to be a town charge.

Supervisor to
have charge
of town
house.

§ 5. The supervisor of Canton, and his successors in office, shall have the care and charge of said town house, and may procure insurance from fire thereon in his official name for and in behalf of the town, and may let the use of the house for occasional public meetings, other than town meetings, the sums received for such use to be appropriated to the repair of said town house.

§ 6. This act shall take effect immediately.

CHAP. 79.

AN ACT to provide for building a bridge at Port Benjamin, in the town of Wawarsing.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the board of supervisors of Ulster county, at their next session, to assess, levy and collect, upon all the taxable property of the town of Wawarsing, the sum of one thousand dollars, for the purpose of building a bridge across the Rondout creek at Port Benjamin. Money to be raised by tax

§ 2. The money, when so collected, shall be paid to Lewis Gasherie, Sylvanus Veenoooy and Jonathan Brundage, whose duty it shall be to proceed with all necessary diligence to erect said bridge, and apply the whole of said sum to that object, and account to the board of supervisors, at its first session after the completion of said bridge, for the manner in which said money shall have been applied. To whom paid.

§ 3. No part of said money shall be recived by said commissioners for their services under this act. Saving clause.

§ 4. This act shall take effect immediately.

CHAP. 80.

AN ACT for the relief of Sarah Combs, widow of John Combs.

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the estate and interest of the people of this state in and to certain lands situate near Harlem, in the city of New-York, of which John Combs died seized, acquired by escheat of the same, the said John having died without heirs, is hereby released to and vested in Sarah Combs, the widow of the said John, her heirs and assigns forever, who shall be entitled to have and enjoy the same under the conveyance heretofore made to the said husband in the same manner as if he had devised the same to her. Right of the state vested in Sarah Combs.

§ 2. Nothing contained in this act shall affect the title of any citizen of the United States to the premises above mentioned or any part of the same. Saving clause.

CHAP. 81.

AN ACT authorising the supervisors of the county of Kings to create a loan, and provide further accommodations for the confinement of prisoners.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be
raised by tax

§ 1. The board of supervisors of the county of Kings are hereby authorised to raise by tax or loan a sum not exceeding twenty thousand dollars : the money so raised, shall be laid out and expended under the direction of the said board, either in building an addition to the county jail, or in purchasing land, and erecting thereon a penitentiary and work house, or to effect both these objects if they should be deemed necessary.

Money may
be borrowed

§ 2. The treasurer of the county of Kings is hereby authorised, under the directions of said board of supervisors, to borrow on the credit of the county, the whole, or such portion of said sum of twenty thousand dollars, as the said board may determine upon, and to give his official bond or bonds for the payment of the same, with interest annually.

Amount of
interest and
part of principal
to be raised yearly

§ 3. The said board of supervisors shall cause to be levied, collected and paid annually, as county charges are, such sums as shall be necessary to pay the annual interest of the money borrowed under this act, and shall in like manner cause to be levied, collected and paid such sums as shall be necessary to reimburse, as it becomes due, the principal so borrowed, in annual instalments, and the number of instalments and when payable, shall be determined by the said board when they shall give the first directions to the treasurer to borrow money under this act : and the treasurer shall immediately apply the money so collected and paid in to him towards the payment of the interest and principal of the money so borrowed.

Prisoners
may be put
to work on
land.

§ 4. The board of supervisors of said county, if land should be purchased, are authorised to remove as many prisoners sentenced to hard labor in the county jail, as they may deem necessary, to the lands so purchased : to place them under such keeper or keepers as they may appoint for this purpose, to direct their confinement in such buildings as they may erect for that purpose ; and to employ them in erecting said penitentiary and work house, or such other labor as may be deemed expedient : and they may also authorise and direct the superintendents of the poor of said county to take charge of the

establishment, (subject to the directions of said board) and provide the necessary food and clothing for said prisoners.

CHAP. 82.

AN ACT to authorise a tax to be levied in the town of Constable, to build or purchase a Town House.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The board of supervisors of the county of Franklin, are authorised and required, at their next annual meeting, to cause to be assessed and levied and collected, by tax, upon all the taxable property of the town of Constable in said county, a sum not exceeding two hundred and fifty dollars ; which sum shall be in addition to and assessed, levied and collected in the same manner as ordinary town charges and expenses. Money to be raised by tax

§ 2. Such money, when collected, shall be paid to the supervisor of said town of Constable, for the purpose of erecting or purchasing a town house in said town of Constable, for the use of said town. To whom paid.

§ 3. Said supervisor and justices of the peace in said town are appointed a committee, with full power and authority, and whose duty it shall be to procure, by purchase or hire, a convenient house for the use of said town, and apply said moneys to the purchase or hire of said house whenever they shall be so directed by resolution of the majority of the electors of said town, in town meeting assembled. Committee to purchase or hire a house.

§ 4. It shall be the duty of said supervisor and justices of the peace for said town, to call a special town meeting, in the manner prescribed in the second edition, volume one, chapter eleven, article first, title second, section twelve of the Revised Statutes, within thirty days from the passage of this act, for the purpose of authorizing and directing the purchase or building said house. Special town meeting.

§ 5. The supervisor shall account to the board of town auditors for the disbursement of said money, in the same manner, that he is required to account for other moneys disbursed by him. Supervisor to account.

§ 6. The deed for the premises purchased shall be executed to the supervisor of said town and his successor in office, and be deposited for safe keeping in the office of the town clerk. Deed of premises.

Committee to
take charge
of the house.

§ 7. The said town may choose by ballot, a committee of three persons, who shall have the care and superintendence of said house, and may cause the same to be repaired, from time to time, at the expense of said town, provided such repairs are approved by the supervisor and a majority of the justices of the peace.

§ 8. This act shall take effect immediately.

CHAP. 83.

AN ACT for the preservation of game in Columbia county.

Passed April 21, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Partridges,
&c. not to be
killed at cer-
tain seasons.

§ 1. It shall not be lawful for any person or persons to catch, kill or any wise destroy, within the county of Columbia, any partridge, quail, rabbit or hare, from the first day of February to the first of September ; nor any woodcock from the first day of March to the first day of July ; nor any snipe from the first day of June to the first day of September, in each year.

Restriction
as to sale of
game.

§ 2. It shall not be lawful for any person or persons, in said county, to sell, offer for sale, or have in his or their possession, any of the said game within the periods mentioned in the first section of this act.

Penalty.

§ 3. Any person or persons violating the provisions of this act, shall be liable to a penalty of five dollars, to be sued for and collected in the name of the overseers of the poor of the town where the offence is committed, or the superintendents of the poor of the county, which suit shall be commenced within three months after the commission of the offence.

How appro-
priated.

§ 4. One half of any penalty, recovered pursuant to this act, shall be appropriated to the support of the poor, and the other half shall belong and be paid to the person upon whose information the suit shall be instituted.

CHAP. 84.

AN ACT to authorize Samuel Bloss to erect a dock adjoining his land on the Oneida lake.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for Samuel Bloss, of the town of Vienna, in the county of Oneida, his heirs and assigns, to erect, have and maintain a dock or wharf adjoining his land in said town, lying on, and bounded by the Oneida lake, at North Bay in said town, and extending into said lake, not exceeding two hundred feet from high water mark ; or from time to time to repair or rebuild the same, and to demand, receive and recover reasonable dockage, wharfage and cranage, from any person or persons, bodies corporate or otherwise, using the same ; but the legislature may at any time hereafter, regulate the rate of wharfage, dockage and cranage, in such manner as shall be just and reasonable.

Dock or wharf may be erected.

§ 2. The legislature may at any time alter or repeal this act.

CHAP. 85.

AN ACT to amend an act entitled "*An act for the preservation of game in the county of Ulster,*" passed May 10, 1845.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. No person shall kill any quail or partridge in the county of Ulster, between the first day of January and the twenty-fifth day of September, nor shall any person kill any woodcock in said county between the first day of February and the fourth day of July.

Restriction.

§ 2. Whoever shall offend against the provisions of the aforesaid section, by killing any quail, partridge or woodcock, within the time therein specified, shall forfeit the sum of five dollars for each quail, partridge or woodcock, so killed.

Penalty.

§ 3. Every person who shall expose for sale any quail, partridge or woodcock, within the said county, or shall have

Penalty.

any of the said game in his possession, during the times when the killing of such game is forbidden by the provisions of the first section of this act, shall be deemed guilty of killing the same within the time prohibited.

How applied. § 4. The penalties imposed by this act shall be collected and applied in the manner prescribed in section fourteen, of title sixteen, of chapter twenty, of the first part of the Revised Statutes; and it shall be the duty of the overseers of the poor of any town, where such offence shall be committed, upon complaint duly made, in writing, by any inhabitant or resident of said county, to prosecute for such penalties in the manner prescribed in said section without delay.

§ 5. This act shall take effect immediately.

CHAP. 86.

AN ACT to equalize the expenses of supporting all bridges over the Black River, which are now or may hereafter be supported at the joint-expense of the towns of Pamela and Watertown, in the county of Jefferson.

Passed April 21, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Expense
how to be
apportioned.

§ 1. All expenses hereafter incurred for the repairs of the present bridges over the Black river, which are supported at the joint expense of the towns of Pamela and Watertown, in the county of Jefferson, and for the erection of any new bridges which may hereafter be erected by authority of the commissioners of highways of said towns, or which may by law become a joint charge upon said towns, shall be paid by each of said towns of Pamela and Watertown, in proportion to the taxable property in each of said towns, as equalized by the board of supervisors of the county, next preceding the time when such expenses are authorized to be made.

§ 2. This act shall take effect immediately.

CHAP. 87.

AN ACT to incorporate the Shamrock Benevolent Society, of the city of Albany.

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. John Coyle, Charles Reilly, Felix M. Shane, William Maloy, Redmond Walsh, Martin Lawlor and Garret Fleming, and such other persons as now are, or may hereafter become members of the "Shamrock Benevolent Society, of the city of Albany," are hereby constituted a body corporate by the name aforesaid. Corporation created.

§ 2. The objects of said society shall be to afford relief to the members thereof in case of sickness or distress, and to provide for their decent burial after death. Objects of society.

§ 3. The said corporation may purchase and hold real estate, for their use and benefit, to an amount not exceeding ten thousand dollars. Estate.

§ 4. The said corporation shall have power to prescribe rules and regulations for the general government thereof ; for the admission and expulsion of its members, and for the election, time of service, and duties of its officers. Rules and regulations.

§ 5. The said corporation shall possess the general powers, and be subject to the general restrictions and liabilities contained in title third, of chapter eighteen, of the first part of the Revised Statutes. General powers.

§ 6. The legislature may at any time alter or repeal this act.

CHAP. 88.

AN ACT to dissolve the corporation known as "The Buffalo Literary and Scientific Academy," and to provide for the just disposition of the property of such incorporation.

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. Heman B. Potter of the city of Buffalo, is hereby appointed receiver of the estate, property and effects of the corporation known as the "Buffalo Literary and Scientific H. B. Potter appointed receiver.

Academy," upon his filing in the office of the clerk of the court of chancery for the eighth circuit, his bond to the people of this state in the penal sum of fifty thousand dollars, with such sureties as the vice-chancellor of the eighth circuit shall approve, conditioned for the faithful discharge of his duties as such receiver; and for the due accounting for all moneys received by him. Upon such bond being executed, approved and filed, as aforesaid, the said vice-chancellor in the said court of chancery, shall make an order approving such bond and dissolving said corporation; and by force of such order, all the estate, property and effects of the said corporation shall vest in such receiver, and the said corporation shall thereupon be dissolved and shall cease.

Vice-chancellor to make order referring the matter to a master.

§ 2. Such receiver shall be a trustee of the estate, property and effects of the said corporation for the benefit of the creditors of such corporation and of its stockholders. Immediately after the entry of the order in the last section specified, the said vice-chancellor shall make in the said court of chancery an order, referring it to one of the masters of the said court residing in the county of Erie, to examine into the affairs of the said corporation and report to the said court a statement of the names of the stockholders thereof and the number of shares held by them respectively; together with a statement of the estate, property, effects, debts, credits and engagements of the said corporation, and of all other matters and things pertaining to the affairs of said corporation.

Master to give public notice.

§ 3. The said master shall cause notice of the contents of such last mentioned order to be published once in each week for three weeks successively in the state paper and in a newspaper published in the city of Buffalo, and shall state in said notice the day on which he will proceed in such examination and reference, from which day he may adjourn from time to time as he may deem expedient.

Powers of receiver.

§ 4. Such receiver shall possess all the powers, perform all the duties and be subject to the same liabilities as receivers appointed by the court of chancery, upon the voluntary dissolution of corporations according to the provisions of article third of title four of chapter eight of the third part of the Revised Statutes, and shall proceed in the discharge of his duties as such receivers are directed to proceed by the provisions of said article. He shall in like manner be subject to the orders, direction and control of the said court of chancery, and in addition to his actual disbursements shall be entitled to such commissions as the said court shall allow.

To allow credit on sale of real estate.

§ 5. Such receiver shall be authorized to allow such credit on the sale of real property by him as he shall deem reasonable, not exceeding two years, which credit shall be se-

cured by a bond of the purchaser and a mortgage on the property sold, and any stockholder in said corporation may become a purchaser on such sale.

§ 6. Such receiver shall be authorized on making any dividend or distribution of the monies and effects in his hands among the creditors and stockholders of said corporation to transfer and assign to them or any of them who shall elect to receive the same, such bonds and mortgages, at and for their full nominal value. To make dividends.

§ 7. The said court of chancery shall possess the same powers and jurisdiction in relation to the said receiver and to the disposition and distribution of the estate, property and effects of said corporation, as such court now has in cases of voluntary dissolutions of corporations under said article third, and the provisions of said article shall apply to the settlement of the affairs of said corporation and the conduct and settlement of the accounts of said receiver, except when otherwise specially provided by this act. Powers of court of chancery.

CHAP. 89.

AN ACT for the incorporation of the New-York Hebrew Assistance Society, for the relief of widows and orphans.

Passed April 21, 1846 by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly do enact as follows :

§ 1. Marx Goodstein, Simon Baum, and such other persons as are now or may hereafter be associated with them, by the name of "The New-York Hebrew Assistance Society, for the relief of Widows and Orphans," are hereby constituted a body politic and corporate by the name aforesaid. Corporation created.

§ 2. The objects of said society are benevolent, to afford pecuniary relief to the widows and orphans of its members, and to educate and support such orphans. Objects of society.

§ 3. The said corporation may purchase and hold real and personal estate, but the annual income of such real and personal estate shall not, at any one time, exceed the sum of two thousand dollars. Estate.

§ 4. The said corporation shall possess the general powers and be subject to the general restrictions and liabilities prescribed in the third title, of the eighteenth chapter, of the first part of the Revised Statutes. General powers.

§ 5. The legislature may at any time, alter or repeal this act.

§ 6. This act shall take effect immediately.

CHAP. 90.

AN ACT to incorporate the Hudson Orphan and Relief Association.

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. All such persons as are now members of the association for the relief of orphan and indigent children in the city of Hudson, and all persons who shall hereafter become members thereof, by subscribing to the constitution, and contributing annually to the funds of said association, and conforming to the by-laws thereof, are constituted a body corporate by the name of the "Hudson Orphan and Relief Association," for the purpose of protecting, relieving and educating orphan and indigent children in the city of Hudson.

May take by devise or gift, real or personal estate.

§ 2. The said corporation may receive, take and hold, by grant, gift or otherwise, except by devise, any real or personal estate for the purposes contemplated by this act, whether the same be devised, bequeathed or conveyed directly to such corporation, or to its officers, managers or trustees, or otherwise, for the use of said corporation. But the annual income of such estate over and above the amount that may be invested in a building and grounds for the purposes of the association shall not exceed the sum of five thousand dollars.

Affairs how managed.

§ 3. The estate and financial concerns of said corporation shall be conducted by five trustees, to be elected annually by ballot on the first Monday in May by the members of the association, and of which election notice shall be given by at least two insertions in one or more public newspapers printed in said city, immediately preceding such election.

Children under charge of society may be bound out.

§ 4. Whenever any child shall be surrendered to the charge of said corporation, by an instrument in writing signed by a parent or guardian of such child, by a superintendent of the poor of the county of Columbia, or by one of the overseers of the poor of the city of Hudson, the said trustees may in their discretion, bind out such child to some suitable employment in the same manner as overseers of the poor are by law authorized to bind out poor and indigent children. But proper provisions shall in every such case be made and inserted in the indenture by which such child shall be bound to service, for securing an education proper and fitting for the condition and circumstances of such child.

By laws.

§ 5. The members of the association shall have power to make by-laws, rules and regulations for the admission and

government of its members, and also for their exclusion from the association for non-observance of such rules, or other reasonable cause.

§ 6. The ordinary and domestic concerns of the institution shall be under the immediate control and superintendence of a board of managers, and such other officers or persons as shall from time to time be appointed for that purpose, in pursuance of the constitution and by-laws of the association. Domestic concerns.

§ 7. The board of managers shall be elected on the day appointed for the election of trustees, and in like manner, and shall have power to appoint such officers, committees, agents, superintendent, matron, teacher and servants, as shall be deemed proper and necessary for conducting the business of said institution, and to make all needful rules for the regulation of their respective duties. Managers how elected.

§ 8. In case of any vacancy which may occur by death, resignation or otherwise, in any office in the board of trustees or managers, it shall be lawful for said board to fill such vacancy at any stated meeting thereafter, provided the remaining members of such board shall have been notified of such intention. Vacancies.

§ 9. The board of trustees may elect from their number a president, secretary and treasurer, and establish for their government such rules and regulations as may by a majority be deemed proper. President, secretary and treasurer.

§ 10. All real estate which may come into possession of the association by purchase or otherwise, and all conveyances made for and on account of the same, shall be so held and conveyed by and in the name of the president and secretary of the board of trustees of said association; and the said corporation shall have power to sue and be sued, and all suits shall be brought and defended in the name of said association, and all process which may be issued for the commencement of a suit against the same, shall be served upon the president or secretary thereof. Title and conveyances how made.

§ 11. The officers which have been appointed by said association, shall hold their respective offices until the first Monday in May, eighteen hundred and forty-seven, and all officers hereafter elected shall retain their office until others are duly elected in their place. Tenure of office of present officers.

§ 12. This act shall take effect immediately.

CHAP. 91.

AN ACT to incorporate the "*Herman's Brothers Benevolent Society in the city of New-York.*"

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. Gotthiel Ranhard, John Thieman, George Messerschmidt, John P. Schmoll, Henry A. Petra, Christian Rupplin, George Rossenburger, Jacob Molter, Henry Eberhard, John Krafft, and such others as are now, or shall hereafter become associated with them, are constituted a body corporate, by the name of the "*Herman's Brothers Benevolent Society,*" of the state of New-York, which shall be located in the city of New-York, and shall continue for the term of twenty-one years.

Objects of society.

§ 2. The objects of the society are charitable, and to afford relief to its members and their families in cases of sickness or distress.

Estate.

§ 3. The corporation may purchase and hold real and personal estate for their use and benefit, but the amount thereof, shall not exceed ten thousand dollars.

General powers.

§ 4. The corporation shall possess the powers and be subject to the restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes.

§ 5. The legislature may at any time modify or repeal this act.

CHAP. 92.

AN ACT to amend an act passed March the 15th, 1839, to incorporate the *Painted-Post Bridge Company*

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Rates of toll.

§ 1. The said company may demand and receive a toll not exceeding the following rates, viz ; for every four wheel carriage drawn by four horses, twenty cents ; for every cur-ricule, chaise, chair or sulkey drawn by one horse, five cents ; if drawn by two horses, ten cents ; for every wagon, sled or sleigh drawn by two horses, ten cents, and three cents for

every additional horse ; for every wagon, cart, sleigh or sled drawn by two oxen, ten cents, and for every additional yoke of oxen, five cents ; for every one horse cart five cents ; for every one horse wagon, sleigh or sled, five cents ; for every score of horses, mules, or cattle, fifteen cents, and so in proportion for a greater or less number ; for every score of hogs or sheep, five cents, and so in proportion for a greater or less number ; for every man on horseback, or with a horse, three cents.

§ 2. This act shall take effect immediately.

CHAP. 93.

AN ACT *for the relief of the president, directors and first company of the Northern Turnpike Road.*

Passed April 21, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The said company may, by any instrument or instruments in writing, under their corporate seal, signed by their president and secretary, to be filed in the office of the clerk of the county of Washington, abandon all that part of the said road north of the south line of the town of Jackson, in the county of Washington, as now made in the towns, of Jackson, Salem and Hebron ; and that from and after filing the said instrument or instruments as aforesaid, the same shall be considered abandoned, and the said company shall be relieved from keeping such part of the said road in repair, and the same road so abandoned shall be and remain a public highway.

Part of road
may be abandoned.

§ 2. This law shall take effect immediately after the passage of this act.

CHAP. 94.

AN ACT *in relation to the election of delegates to the convention of the people of this state.*

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Number of
delegates to
be chosen.

§ 1. The number of delegates to be chosen in and by the respective cities and counties of this state, to the convention to be held by virtue of an act entitled "An act recommending a Convention of the People of this State," passed May 13, 1845, shall be the same as the number of members of the Assembly, to be chosen in and by the said cities and counties respectively, in pursuance of an act entitled "An act for the apportionment of the members of the Assembly of this state passed March 30, 1846.

Hamilton
county.

§ 2. For the purpose of electing delegates to the said convention, the county of Hamilton shall be considered a part of the county of Fulton ; and the other counties of this state shall separately elect the delegates to the said convention to which they shall be respectively entitled.

§ 3. This act shall take effect immediately.

CHAP. 95.

AN ACT *authorizing the removal of indictments from the recorder's court of the city of Utica, to the court of oyer and terminer, and for other purposes.*

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Indictments
may be re-
moved.

§ 1. The recorder's court, of the city of Utica, shall have the same power as is possessed by courts of general sessions of the peace, to order indictments pending in said court to be removed therefrom to the court of oyer and terminer ; and the provisions of article three, title four, chapter two, of the fourth part of the Revised Statutes, in relation to the removal of indictments pending in courts of general sessions, shall apply to indictments pending in the said recorder's court. The recorder of the city of Utica shall be entitled to receive

Fees of re-
corder.

the same fees for services in civil cases as are allowed by law to other recorders of cities, but he shall not charge or receive any fees in criminal cases, except in cases allowed by law to be compromised on the payment of costs, and where such fees are payable by the defendant or complainant; in which cases the recorder may charge and receive the same fees as are allowed by law to other magistrates in similar cases, which shall be applied by him to defray the expenses of fuel, lights and stationery for his office.

§ 2. This act shall take effect immediately.

CHAP. 96.

AN ACT to enable the supervisors of the city and county of New-York to raise money by tax.

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The mayor, recorder and aldermen of the city of New-York, as the supervisors of the city and county of New-York, of whom the mayor or recorder shall be one, are hereby empowered, as soon as conveniently may be after the passage of this act, to order and cause to be raised by tax, on the estates, real and personal, of the freeholders and inhabitants of and situated within the said city and county, and to be collected according to law, a sum not exceeding nine hundred and sixty thousand one hundred and sixty-two dollars, to be applied towards defraying the various contingent expenses legally chargeable to the said city and county, and such expenses as the mayor, aldermen and commonalty of the city of New-York may in any manner sustain or be put to by law. Such portion of the contingent expenses of the said city and county of New-York as relates to re-paving and cleaning streets in that part of said city lying south of a line running through the centre of Thirty-fourth street, shall be assessed only on that part of the said city lying south of the said line. And also the further sum not exceeding four hundred and twenty eight thousand dollars, by tax on the estates, real and personal, of the freeholders and inhabitants of and situated within the said city and county, and to be collected according to law, to be applied towards defraying the expenses of police in said city and county. And also a further sum of one hundred and ninety-one thousand one hundred and ninety-three dollars eighty-two cents, by tax on the estates, real and personal, of the

The sum of \$960,162. to be raised by tax.

Also the sum of \$428,000.

Also the sum of \$91,193.82.

freeholders and inhabitants of and situated within the said city and county, and to be collected according to law, to be applied to supplying the deficiency in taxation in said city and county for the year one thousand eight hundred and forty five.

And also the sum of \$174,968.

And also a further sum not exceeding one hundred seventy-four thousand nine hundred and sixty-eight dollars, by tax on the estates, real and personal, of the freeholders and inhabitants of and situated within that part of the said city and county of New-York, which is or may be designated by a resolution or ordinance of the common council of the said city of New-York as the "Lamp district," to be collected according to law, and applied towards defraying the expenses of lighting such parts of the said city last mentioned.

CHAP. 97.

AN ACT to amend the act entitled "*An act to provide for paying the debts of insolvent safety fund banks.*"

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Amendment.

§ 1. Section six of the act entitled "*An act to provide for paying the debts of insolvent safety fund banks,*" passed April 28th, 1845, is hereby amended by inserting after the word "sacrifice" the words following, viz: "or any real estate or other assets belonging to such bank," so that the said section shall read as follows :

Receiver may exclude demands in progress of litigation.

"§ 6. It shall be lawful for the receiver of any bank, under the advice and direction of the chancellor to exclude from his final dividend and from the statement required by the ninth section of the act entitled '*An act to create a fund for the benefit of the creditors of certain monied corporations and for other purposes,*' passed April 2, 1829, any demands which may be in progress of litigation or cannot be sold without too great sacrifice, or any real estate or other assets belonging to such bank; and he may, under the provisions of this act and the act hereby amended, pay off all the creditors of such insolvent corporations without regard to such excluded demands or real estate or other assets, the avails of which when collected or sold shall be paid by such receiver under the order of the court of chancery into the bank fund for the benefit thereof."

Certain creditors may be paid.

Provision as to the sale of real estate.

§ 2. It shall be lawful for the receiver of any such bank who shall have omitted to sell the real estate of any such

bank within the time heretofore limited for that purpose, to sell such real estate under the advice and direction of the chancellor at public auction upon such notice as the chancellor shall require, and the avails or proceeds thereof shall be paid by such receiver into the bank fund for the benefit thereof.

§ 3. This act shall take effect immediately.

CHAP. 98.

AN ACT in relation to the State Lunatic Asylum.

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The Treasurer is hereby directed to pay to the treasurer of the State Lunatic Asylum, on the warrant of the Comptroller, such sum or sums of money, not exceeding in all seventeen thousand dollars, as the managers of said asylum may require, to complete the additional buildings authorized by the act of May 7th, 1844, in relation to said asylum; and such sum or sums of money on the like warrant, as the managers of said asylum may require, not exceeding in all five thousand dollars, to provide a suitable supply of water for the use of said asylum.

Money to be paid to treasurer of asylum to complete buildings.

§ 2. The Treasurer is also further directed to pay to the treasurer of said asylum, upon the warrant of the Comptroller, such sum or sums of money as may be required by the certificates of the superintendent of said asylum, to provide furniture, fixtures and furnaces for the above mentioned additional buildings, not exceeding fifteen thousand dollars; and such further sum or sums as may be required on like certificates, not exceeding three thousand dollars, to erect two woodsheds, an ice-house, and to enclose the grounds in front of the asylum with a suitable fence.

For furniture, fixtures, &c.

§ 3. The managers of said asylum shall, from time to time, account with and render vouchers to the Comptroller, for the expenditure of the moneys appropriated by this act.

Managers to account.

§ 4. The managers of said asylum shall have the power, on the nomination of the superintendent of said asylum, to appoint a second assistant physician to said asylum, whose salary shall be fixed and paid in the same manner now provided by law in relation to the other resident officers of said asylum.

Second assistant physician may be appointed.

§ 5. The managers of the said asylum are authorized, un-

Surplus water of canal

how to be
used.

der the direction and subject at all times to the control of the acting canal commissioner, having charge of the Chenango canal, to use the surplus water, discharged around or through the fifth lock on said canal, to operate a pump, to supply said asylum with water, from said canal or from Nail creek, in case the said commissioner shall be of opinion that the same can be done without detriment to the navigation of said canal.

CHAP. 99.

AN ACT in relation to the office of District Attorney, of the county of Schoharie.

Passed April 22, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The district attorney of the county of Schoharie, shall receive for his services as said district attorney, in lieu of the fees now allowed by law, an annual salary of two hundred and fifty dollars, to be audited and paid by the board of supervisors of said county.

§ 2. The act to regulate fees of district attorneys, and to repeal the several acts relating to the same, passed May 7, 1839, and so much of title eighth, chapter second, part fourth of the Revised Statutes, as relates to the district attorneys, as is inconsistent with this act, shall not extend to the county of Schoharie.

§ 3. This act shall take effect immediately.

CHAP. 100.

AN ACT to incorporate the Niagara Falls Ferry Association.

Passed April 22, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. John V. E. Vedder, Benjamin H. White, John Fisk, Charles B. Stuart and Roswell G. Benedict, and their successors, are hereby constituted a body corporate, by the name and description of "The Niagara Falls Ferry association," for the purpose of establishing and maintaining a steamboat

ferry across the Niagara river, in the gulf between the falls of Niagara and the whirlpool on said river; to construct and maintain a carriage road and roads down the high bank of said river to said ferry; to erect a ferry house and all necessary wharves or docks, for the accommodation of the ferry trade, and by that name shall have power to purchase, hold and convey real and personal estate, provided such real estate shall not exceed in value the sum of ten thousand dollars; but in no case shall the said association have power to contract any debt for any purpose whatever.

§ 2. The capital stock of the said association shall be twenty-five thousand dollars, to be divided into shares of one hundred dollars each, which shall be deemed personal property, and shall be transferrable in such manner as the said corporation shall, by their by-laws, direct. And the said stock shall be allotted to the members of the said association according to their respective interests therein. Capital stock

§ 3. The management of the affairs of the corporation shall be entrusted to three directors, being stockholders of said corporation; which said directors shall hold their offices for one year from the first Monday in January in each year, and until others are elected in their stead. An annual election shall be held on the first Monday of January in each year, at such place in the county of Niagara, and at such house as the said directors may, from time to time, appoint; which election shall be by ballot, and each stockholder shall, at such election, be entitled to one vote for each share of the capital stock held by him, and may vote either in person or by proxy. Affairs to be managed by three directors.

§ 4. The said John V. E. Vedder, John Fisk and Charles B. Stuart, shall be the first directors, and shall hold their offices until the first Monday of January, one thousand eight hundred and forty-seven, and until others shall be chosen in their stead. First directors.

§ 5. The directors of said corporation shall have power to appoint all the officers and agents which may be necessary for conducting their aforesaid business, and to renew the same at pleasure; to fix their compensation; to establish rules, regulations and by-laws, not inconsistent with the laws of this state or of the United States, for the government of the stockholders, officers and agents of said corporation, and generally to control and superintend the business of said corporation. Other officers how appointed.

§ 6. Rates of ferriage shall be fixed by the court of common pleas of the county of Niagara, from time to time, for the government of said association. Rates of ferriage.

§ 7. The legislature may at any time alter, or repeal this act

CHAP. 101.

AN ACT to incorporate the Union Lyceum of Lyons.

Passed April 22, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. The members of "The Union Lyceum of Lyons," in the county of Wayne, and all persons who shall hereafter be associated with them, are hereby created a body corporate, for the purpose of establishing, maintaining, endowing and conducting a literary institution for mutual improvement, as set forth in the constitution of said society, with power for such purposes to take by purchase or otherwise, except by devise, and to hold, mortgage, transfer and convey real and personal estate to the amount of ten thousand dollars.

Affairs how
managed.

§ 2. The management of the concerns of said association, shall be vested in such officers, according to such rules and regulations as the constitution and by-laws thereof, and not inconsistent with the constitution and laws of this state or of the United States, shall from time to time direct and ordain.

Funds and
property how
applied.

§ 3. The estate, property and funds of the said corporation shall be devoted solely to the purposes and business of the said corporation, as set forth and declared in and by the first section of this act ; and the executive committee of said association, or such other officers as may be invested with the power of conducting the business and concerns thereof, shall not sell or mortgage real or personal estate, nor incur debts, without the assent of the association, signified in such manner as the by-laws or rules thereof shall direct ; and they shall report their proceedings to the association as often as required by its vote, and the directions of the association shall be binding on such executive officers.

General
powers.

§ 4. The said corporation shall possess the powers, and be subject to the provisions and liabilities of the third title of eighteenth chapter of the first part of the Revised Statutes.

Right to re-
peal.

§ 5. This act shall take effect immediately, and may at any time hereafter be amended or repealed by the legislature.

CHAP. 102.

AN ACT to incorporate the village of Cold Spring.

Passed April 22, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All that district of country in the town of Philips, ^{Boundaries.} and county of Putnam, bounded by a line beginning on the east bank of the Hudson river, at the northwest corner of General George P. Morris's land; thence along the east bank of said river, at low water mark, to the southwest corner of the West Point Foundry farm; thence northeasterly along said foundry line to the southeast corner of said foundry farm: thence north and westerly, parallel with the said line to Bull Hill; thence westerly parallel with said Morris's south line, including the village cemetery to the place of beginning, shall hereafter be known and distinguished by the name of the village of Cold Spring; and the freeholders and inhabitants residing within the limits aforesaid, are hereby constituted a body corporate by the name of the trustees of ^{Name.} the village of Cold Spring.

§ 2. The said corporation shall enjoy the privileges, and be subject to the restrictions contained in the third title of ^{General powers.} the eighteenth chapter of the first part of the Revised Statutes, so far as they may be applicable to such corporation.

§ 3. It shall be lawful for the inhabitants of said village, ^{First meeting to elect officers.} qualified to vote at town meetings, to meet on the third Saturday, after the passage of this act, at such time and place in said village, as shall be appointed by some justice of the peace of the said town of Philips, and notified to the said inhabitants at least one week previously thereto, by a notice posted in three public places in said village, and then and there elect five trustees thereof, three assessors, one treasurer, one collector, and one constable, who shall serve process in said village only, who shall be residents and freeholders therein; and such justice shall preside at such meeting, and declare the persons having the greatest number of votes duly elected to the several offices aforesaid; and in like ^{Annual election.} manner on the first Tuesday of March in each year thereafter, there shall be an annual election of the officers of said village above specified; and the trustees for the time being shall notify the time and place for holding such meetings, and shall preside at the same; and the several officers aforesaid, shall hold their offices until the first Tuesday of March

next after their election, and until others shall be elected in their stead.

Officers to
give notice of
their accep-
tance.

§ 4. The officers mentioned in the third section, and all other persons elected or appointed to office by the board of trustees, shall, within ten days after each and every election and appointment, and before they proceed to execute the duties of their respective offices, give notice in writing of their acceptance ; those first elected to the justice who presides at the meeting, to be by him filed with the clerk, and all others to the clerk of said village.

Treasurer
and collector
to give bond.

§ 5. The treasurer, collector and constable shall, before they enter on the duties of their offices respectively, give such bond with such sureties to the trustees of said village, for the faithful performance of the duties of their respective offices, as the said trustees shall deem sufficient.

President.

§ 6. The trustees of said village, within ten days after their election, shall choose one of their number to be president of the said board of trustees, whose duty it shall be to preside at the meetings of the trustees ; to order extraordinary meetings of said trustees, whenever he shall think proper ; to receive complaints of the breach of any laws ; to see that the by-laws, rules, regulations and ordinances, are duly executed and observed, and to prosecute in the name of the trustees of the village of Cold Spring, all offenders against such by-laws, rules, regulations and ordinances, and to do such other acts and things as may be proper for him, as such president to do.

Clerk.

§ 7. The said trustees shall, within ten days after their election, appoint some person to be clerk of said board of trustees, whose duty it shall be to keep a record of the doings of said board of trustees, especially of the passing of by-laws, rules, regulations and ordinances ; and the said clerk shall, within ten days after the passing of any such by-laws, rules, regulations and ordinances, put up in three public places in said village a copy thereof, and cause the same to be published three weeks in a public newspaper printed in said village, if there shall be one. It shall be the further duty of the clerk to keep a faithful record of all the doings and votes of the inhabitants of said village, at their annual and other legal meetings, in a book to be by him provided for that purpose ; and the said clerk shall hold his office till another shall be appointed and qualified.

Vacancies
how supplied

§ 8. In case of a vacancy of any of the officers elected, chosen, appointed or otherwise created by virtue of this act, it shall be the duty of the board of trustees, by a warrant under the hands of the president thereof, to appoint some suitable person to fill such vacancy ; and the person so appointed, shall have like powers, and be subject to the same

restrictions as if elected or appointed in the manner aforesaid.

§ 9. The electors may, at any regular meeting, by a vote, authorize the board of trustees to contract a debt or debts, for and in name of the said village, for the purchase of a fire engine, and other fire apparatus; but the debt of the said village so authorized, shall never exceed in the aggregate the sum of five hundred dollars; and whenever such debt shall exist, it shall be the duty of the trustees to cause to be levied and collected of the taxable property in said village, in each year, such part thereof as shall be sufficient to provide for the payment of such debt, in some reasonable time not exceeding four years.

Electors may authorize debts to be contracted.

§ 10. The trustees shall keep an accurate account of their expenses and disbursements, and of all moneys received and paid by them during their continuance in office; and shall, at every annual meeting, either in person or by the treasurer, prepare and state the account of the current year in writing, to be filed with the clerk; and if a balance remain in their hands, or in the hands of the treasurer, he or they, as the case may be, shall pay the same over to his or their successors.

Accounts to be kept.

§ 11. The board of trustees shall have power to cause the streets, including sidewalks, or either, or any part of either of them, within the said village, to be levelled, raised, graded, pitched, gravelled, repaired or paved; and the assessors shall assess the expense thereof in a just and equitable manner upon the lots and property of the taxable inhabitants of said village.

Streets and sidewalks.

§ 12. The said trustees may organize a fire department for said village, to consist of a chief engineer, and an assistant engineer; one company of firemen not exceeding twenty-four men each to each fire engine; and one hook and ladder company not exceeding twelve men. All the officers and members of said fire department shall be appointed by said trustees, and shall hold such appointments during their pleasure. The trustees shall be fire wardens ex-officio, and belong to said department; and all persons, except said trustees, while they shall belong to the same, shall be exempt from military duty, except in case of war, insurrection or invasion, and from serving as jurors in all courts of record.

Fire department.

§ 13. The said village of Cold Spring is hereby constituted a road district, and shall be exempt from the superintendence of the commissioners of highways of the said town of Philips; and the trustees of the village shall have the same powers over the said road district, and discharge all the duties which by law are given to or enjoined upon commissioners of highways in towns, and be subject to the like re-

Road district

strictions and appeals, except as hereinafter provided. The said trustees as such commissioners shall have power:

Highway labor.

1. To direct that any portion of the highway labor, tax or commutation therefor, be laid out in making and repairing sidewalks and crosswalks in said village :

Commutation.

2. To direct such portion of the highway labor, tax or commutation therefor, not exceeding one hundred dollars in the aggregate in each year, to be laid out and expended upon the highway, on the east bank of the Hudson river, called the Break-neck road, between the north bounds of the village of Cold Spring and the south line of the county of Dutchess :

Street Commissioner.

3. To appoint, by contract, one or more street commissioners, and to remove the same at pleasure, and to appoint one or more persons in the same manner in their stead :

Commissioner to give bond.

4. To require from such commissioner, a bond, with one or more sureties, for the faithful performance of his duties, and for the faithful expenditure of, and accounting for all moneys that may come to his hands as such commissioner :

His pay.

5. To pay such commissioner such compensation as they may think proper :

Estimate of assessment.

6. To make an estimate and assessment of the whole number of days' work to be assessed in each year, in the manner prescribed by the provisions contained in article second, title first, chapter sixteen and part first of the Revised Statutes, and the act to amend the same, passed April 10th, 1832, except that no person shall be assessed more than one day for a poll tax :

Amount to be paid.

7. To require of every person who shall be so assessed over two days in any one assessment, the payment of his or her assessment in money, at the rate of fifty cents per day, and to collect the same in the manner that taxes in said village are collected :

Money to be paid to commissioner to be expended on streets.

8. To make their order from time to time in favor of any such street commissioner, upon the treasurer, for such portions of the moneys so collected as they may deem proper, to be expended in the streets of said village, in compensating the commissioner, and in the purchase of scrapers, ploughs and other necessary implements therefor, as they may deem proper. Whenever required, the said street commissioner or commissioners for the time being, shall deliver to the trustees a list of all the persons in said village, by law liable to work on the highway ; when a list of persons assessed for not more than two days shall be delivered by the trustees to any street commissioner, he shall warn all such persons to labor on the highways, according to the article of the Revised Statutes above referred to ; and all such persons when duly warned, shall work out their said assessment, or they may

commute for the same, at the rate that the trustees may have established for highway labor during the then current year, under the preceding subdivision, to be paid to such street commissioner. If any person shall neglect or refuse so to work or commute, he shall be liable to the same penalties as is provided in the third article of the title of the Revised Statutes above referred to, and to be collected in the same manner. The street commissioner or commissioners for the time being, shall superintend the labor to be done upon the streets and highways, and expend all moneys that shall come to his or their hands as such, according to the direction of the trustees. Every such street commissioner shall, as often as required by the trustees, account to them for all moneys that he may receive, and at the end of his term of office, render them a full account, under oath, as is provided for overseers of highways in the said third article; and the street commissioner or commissioners for the time being, shall have the care of the streets and sidewalks in said village, and perform such other duties in relation thereto as the trustees shall direct. The collector of the village of Cold Spring shall, under the direction of the trustees, collect the assessments required as aforesaid to be paid in money in lieu of highway labor, to have the same powers in relation thereto, and be subject to the same duties and liabilities, as in the collection of other taxes; and their said assessments shall be a lien on real estate like other taxes.

§ 14. The trustees shall have power :

Police regulations.

1. To appoint one of their number to preside at any meeting, either of the inhabitants or of themselves, in the absence of the president :

2. To purchase and hold such real estate as may be necessary for the location and erection of engine houses, markets, pounds, wells, cisterns, and reservoirs :

3. To purchase fire engines and other usual apparatus and implements for extinguishing fires, and to erect houses for the safekeeping thereof :

4. To provide for the equipment, government, duties and exercise of fire companies :

5. To inspect or cause to be inspected, fire-places, chimneys, stoves and stove-pipes, and to cause the same to be put and kept in safe condition :

6. To compel the inhabitants of said village to keep fire buckets, to keep their ashes in safe places, to keep ladders, and to construct scuttles to the roofs of their buildings :

7. To prevent and remove obstructions in the street and upon the side-walks, and to regulate the planting of shade trees in the streets :

8. To control the location of slaughter houses within the limits of said village :

9. To prevent immoderate and improper riding or driving, and the discharge of fire arms and crackers, and the burning, and improper deposit of powder in said village :

10. To prevent the running at large in said village, of cattle, horses, sheep, swine, geese, or other animals, by impounding and sale thereof :

11. To erect a pound in said village, and appoint a pound master :

12. To provide for the safe-keeping and repairing of the property of the said corporation, and to provide for keeping the streets, parks, squares, commons, and open grounds in said village in good order, and to enact and enforce penalties for any injuries done to trees, or shrubbery, standing in any public place in said village :

13. To restrain exclusively within the bounds of said village in such manner as they may deem proper, the exhibition of any show, caravan, circus, theatre, or any artificial or natural curiosity, for money ; and they shall in no case permit such exhibition, except on the payment to the treasurer for the use of the corporation, of a sum not more than ten dollars for each exhibition :

14. To direct the time within which the assessors of said village shall complete the assessment roll, and to correct the same on appeal:

15. To prescribe the manner of drawing moneys from the hands of the treasurer ; and keeping all the accounts respecting the affairs of said village:

16. To remit all fines, penalties and forfeitures, wholly or in part:

17. To purchase and receive the title of lands for a public cemetery for the use of said village and its vicinity; but not to impose a tax therefor, nor shall said land exceed in quantity five acres:

18. To provide for the digging of wells and public sewers and drains, and the making of aqueducts, cisterns and reservoirs, and to supply such cisterns and reservoirs and the inhabitants of said village with water, by means of conduits, pipes and other hydraulic fixtures ; to enter upon, occupy, and use any lands within said corporation, for the purposes in this section mentioned, and to assess the damages for such entrance, occupation and use of the owner or owners of such lands ; and the owner or owners of such lands may appeal to the first judge of the county of Putnam, within twenty days after such assessment shall be completed, by serving a written notice of such appeal on the president ; and the said first judge on receiving notice shall, within ten days thereafter ap-

point three disinterested freeholders not resident in said village, by an order in writing, to re-assess said damages which said freeholders, so appointed, shall, within ten days after being served with said order, meet, hear and re-assess said damages. Notice of the time and place of hearing and re-assessing the same, shall be served on said president five days before the time of said re-assessment. The decision of the said freeholders shall be final in the premises. But the trustees shall not dig any wells, or build cisterns or reservoirs in any door-yard or garden, without the consent of the owners:

19. To prevent persons from leaving horses or teams without being tied or fastened in the streets of said village;

20. To prevent and restrain riots, routes, noises, disturbances or disorderly assemblages in any street or part of said village:

21. To make, ordain and publish all by-laws and ordinances, not repugnant to the laws and constitution of this state and the United States, necessary to carry into full effect any of the provisions of this act, and to alter, amend or repeal the same:

22. To compel the inhabitants of said village to aid in extinguishing fires, and to direct the manner in which such aid shall be given.

§ 15. It shall be the duty of the board of trustees, to publish the by-laws, rules, regulations and ordinances they shall from time to time ordain and make, for three weeks, by posting, or causing to be posted, copies thereof, in three public places in said village, or by publishing copies for three weeks in a public newspaper printed in said village, if there shall be one; to sue for and recover all penalties under this act, and their by-laws; and generally to exercise and carry into effect for the good order and well regulating of said village, all powers with which they are invested by this act. By laws.

§ 16. The treasurer shall receive, have the custody of, and pay over to the persons entitled to the same in the manner directed by the trustees, all moneys belonging to the corporation; he shall keep an accurate and just account of all receipts and disbursements, and account for such moneys to the inhabitants of said village at their annual meeting in writing, to be filed with the clerk, and to the board of trustees whenever thereto required by them. Duty of treasurer.

17. The collector shall, within such time as shall be specified therein, next after the receipt of his warrant for the collection of any tax, or assessment, collect and pay over the same to the treasurer, and file the treasurer's receipt therefor with the clerk, together with his warrant and the tax list annexed thereto; and all moneys in the hands of the treasurer shall be liable to be drawn out by the trustees, Of the collector.

and applied to and disposed of by them for the benefit of the said village, subject to the provisions of this act; and it shall be lawful for the said trustees to issue new warrants, or to renew those that may have been issued by them or their predecessors, for the collection of any tax or assessment from time to time, so often as such warrants shall be returned uncollected.

His fees.

§ 18. The trustees are hereby authorized to add the collector's fees to any sum of money authorized or directed to be collected by him in said village, and to apportion the same with the other money so to be collected.

Duty of constable.

§ 19. The constable chosen or appointed by virtue of this act, shall be invested with the same powers and authority, entitled to the same fees and rewards, and subject to the same duties and liabilities in every respect, as by law appertain or belong respectively to the constables chosen at the town meetings in the several towns in this state. The said constable shall receive the same compensation for his services as are allowed to other officers for like services, and his charges in all criminal cases shall be audited and allowed by the board of supervisors of the county of Putnam, in like manner as the accounts of the constables of the several towns are audited and allowed.

Competency of inhabitants.

§ 20. No person shall be an incompetent justice, witness or juror by reason of his being an inhabitant of the village of Cold Spring, in any action or proceeding in which said village may be a party or have any interest.

Officers to take oath of office.

§ 21. All officers of or under the corporation, shall, within ten days after their election or appointment, and before they proceed to execute the duties of their respective office, take and subscribe an oath or affirmation before the president of said corporation, who shall have taken and subscribed a like oath before a justice of the peace of the county of Putnam, to support the constitution of this state, and of the United States, and for the faithful execution of the duties of the offices to which they may have been elected or appointed. All such oaths or affirmations to be entered in a book to be kept by the president for that purpose, and to be administered without fee or reward.

Penalty for refusing to act when elected.

§ 22. Every person who, having been duly elected or appointed to any office in said corporation, and who shall have been present at such election or appointment, or been otherwise duly notified thereof, and who shall, for ten days after such notice, refuse to take upon himself the duties of such office, or neglect to give notice of his acceptance thereof to the clerk of said corporation; and if there be no clerk, then to the president thereof; and if the clerk shall neglect to give the like notice of his election to the president, any per-

son so neglecting, shall, for every such refusal or neglect, forfeit the sum of five dollars, with costs of suit, recoverable in the name of the said corporation in an action of debt, in any court having cognizance thereof, for the use of the corporation; and in any such suit, the trustees may declare generally upon this section, and give the special matter in evidence; but no person shall be liable to such fine for such neglect or refusal, if he was the incumbent of said office for the term immediately preceding such election or appointment.

§ 23. Whenever the inhabitants of said village, by a vote taken as hereinbefore prescribed, shall have directed the raising of any sum or sums of money by tax, the assessors of said village shall, within such time as the trustees shall have directed, make out a tax list thereof, in which they shall insert the names of all the taxable inhabitants in said village, and the names so far as they can be ascertained, of non-residents, who shall own real estate therein, specifying the value thereof: and they shall apportion the sum or sums to be raised by such tax on such inhabitants and non-residents owning real estate, in due proportion, and the valuation of such property; in all other respects such assessments shall conform to the manner of assessments of town and county taxes, except appeals by persons aggrieved, to be made to the trustees for ten days after posting of notice of completion of tax list.

Tax list to be made out.

§ 24. All taxes and assessments upon any real estate in said village, shall be a lien thereon, and shall be preferred in payment of all other charges, except town, county and state taxes; and if the same cannot be collected by the collector of said village, by the time specified in his warrant, he shall make return thereof to the trustees, who may give notice for ten weeks in some newspaper printed in said village; or if no paper shall be printed, then in any newspaper printed in the county of Putnam, requiring the owner or owners to pay the sum assessed thereon, and ten per cent interest thereon from the time the same was returned to the trustees, and all costs and charges in relation thereto, to the treasurer of the corporation; and in case default shall be made in such payment at a day and place therein prescribed, that all such lands will be sold at public auction to the person who will advance the amount of such assessment, interest, costs and charges for the shortest term of time; and if such tax and the expenses, costs and interest are not paid as in the said notice required, it shall be lawful for the said trustees or a majority of them, to cause such land to be sold at public auction, as expressed in such notice, and to give a certificate of such sale under their corporate seal, to the purchaser thereof; and such purchaser,

Taxes to be a lien on real estate.

his executor, administrators and assigns shall, by virtue thereof, and of this act, lawfully hold and enjoy the same for his and their own use, against the owner thereof, and all persons claiming under him, until the expiration of the term for which such sale was made, subject to the payment of the taxes and assessments during said terms, and shall be entitled to move from such land, any buildings or materials erected or put thereon after such purchase. But any lands sold by virtue of this section, may be redeemed at any time within two years from the sale thereof, by any person, by the payment to the purchaser, of the amount bid by him and interest thereon at the rate of fourteen per cent per annum.

Trustees to
be paid for
their services

§ 25. The trustees of said corporation shall receive such compensation for their services as the voters of the said village, by a vote taken at the annual meeting before the election of the officers, shall think proper to allow; the clerk shall receive such compensation for his services as the trustees shall allow, not exceeding in the aggregate fifty dollars per year; the treasurer's compensation shall be determined in the same manner as the trustees; the pound master shall receive the same fees as are now allowed by law to pound masters, elected in the towns of this state; but no compensation shall be allowed to any trustee, except for necessary expenses incurred for the said village, within the first year from the passage of this act.

Highway
labor

§ 26. Every person assessed one day or more for highway labor in said village, may commute the same, at the rate of fifty cents for each and every day so assessed.

Right to
repeal.

§ 27. The legislature may at any time alter or repeal this act.

§ 2. This act shall take effect immediately.

CHAP. 103.

AN ACT to incorporate the Fort Hill Cemetery Association.

Passed April 23, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Corporation
created.

§ 1. William H. Seward, Alfred Conklin, Enos T. Throop, George N. Hatch, and Thomas Y. How, Jr, and such persons as may hereafter associate, by the name of the Fort Hill Cemetery Association, are hereby constituted a body corporate, under that name or such other as they may select and record, as is hereinafter provided, with power to take hold

and convey real and personal estate to the use of said corporation, not exceeding twenty acres of land and fifteen thousand dollars of personal estate, together with such as may grow out of the sale of lots.

§ 2. The said corporators shall constitute the board of ^{Trustees.} trustees, who shall elect one of their number to be their president, and in case of the death, resignation or removal from the state of any of the said trustees, the survivors or remainder shall fill the vacancy thus occasioned from amongst the plat owners.

§ 3. The said corporation may acquire and hold such land ^{Land may be acquired for cemetery.} within the village of Auburn, and not exceeding twenty acres, as they may select for the exclusive use of a cemetery or a place for the burial of the dead, and may give the same such name as they may think appropriate; and for this purpose such parts of the said land as may from time to time be required for that purpose, shall be surveyed and subdivided into lots or plats of a convenient size with such walks, paths and avenues as the said trustees or a majority of them shall direct; and a map of the said survey containing the name designated as aforesaid, shall be filed in the clerk's office of the county of Cayuga. When the said map shall be filed, the said trustees may sell and convey such plats or lots on such terms and at such price as they shall agree upon, which conveyances shall be made under the seal of the said corporation, and signed by the president and secretary thereof; and all moneys obtained for such sales shall be applied by the said trustees to the payment of the purchase money of the land acquired by the said corporation, and to improving and embellishing the same as a cemetery, and the excess if any to such charitable purposes as the trustees may designate and direct.

§ 4. It shall and may be lawful for the said corporation ^{Corporation may take and hold grants, donations and bequests.} also, to take and hold any grant, donation or bequest of property, real or personal, upon trust to apply the income thereof, under the direction of the trustees aforesaid for the improvement or embellishment of the said cemetery, or of any building, structures or fences erected or to be erected upon the lands of the said corporation, or of any individual proprietor of a lot or lots in the said cemetery, or for the repairs, preservation or renewal of any tomb, monument, gravestone, fence, railing or other erection, in or around any cemetery lot, or for planting and cultivating of trees, shrubs, flowers or plants in or around any cemetery lot, according to the terms of such grant, donation or bequest; and the court of chancery, or any court having equity jurisdiction, shall have full power and jurisdiction to compel the due performance of the said trust or of any of them, upon a bill filed by a

proprietor or proprietors of any lot or lots in the said cemetery, for that purpose.

Cemetery to be exempted from Taxes, &c. § 5. The said cemetery shall be and hereby is declared exempted from all public taxes, rates or assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietor or proprietors, but they and their heirs or devisees may forever hold the same entirely and totally exempted therefrom, so long as the same shall remain dedicated to the purpose of a cemetery, and during which time no street, road or avenue shall be laid through the said cemetery, or any part of the land held by the said corporators for the purposes aforesaid, without the consent of the said corporation first had and obtained, except by special permission of the legislature of this state.

General powers. § 6. The said corporation shall possess the general powers and be subject to the liabilities and provisions contained in title third, of chapter eighteen, of the first part of the Revised Statutes.

Rights to repeal. § 7. The legislature may at any time alter or repeal this act.

CHAP. 104.

AN ACT to incorporate the "Niagara Falls International Bridge Company."

Passed April 23, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created. § 1. All persons who shall become stockholders pursuant to this act, shall be and they are hereby constituted a body corporate, by the name of "The Niagara Falls International Bridge Company," with power to construct or to associate with any other persons, company, or association, not having banking powers, and solely for the construction, maintaining and managing of a bridge across the Niagara river, at or near Niagara Falls, in the county of Niagara.

Capital stock. § 2. The capital stock of said company shall be two hundred and fifty thousand dollars, which shall be divided into shares of one hundred dollars each, and shall be deemed personal property.

Affairs how managed. § 3. The stock, property, affairs and concerns of said company or corporation shall be managed by seven directors, who shall be stockholders in said corporation, and shall be annually chosen after the first election, on the first Monday

in July in each year, at such place at or near Niagara Falls, as a majority of the directors shall appoint, of which due notice shall be given as hereinafter directed. The directors shall, at their first meeting after such election, appoint one of their number to be president, and shall, also choose a secretary, and a treasurer, to be required before entering upon the duties of his office, to give security according to the by-laws of said corporation.

§ 4. The directors may require from the stockholders payment of all sums of money by them subscribed, at such times and in such proportion as may be deemed proper, under the penalty of forfeiture of their respective shares, and all payments thereon, first giving thirty days previous notice of each call, in one or more newspapers printed in said county. Calls on stockholders.

§ 5. Charles B. Stuart of Rochester, Alexis Ward of Albion, Washington Hunt of Lockport, George R. Babcock of Buffalo, and Peter B. Porter of Niagara, shall be commissioners, who shall, on the first Tuesday in May next, meet at some suitable place at or near the said Falls, such as they or a majority of them shall appoint, open books and receive subscriptions to the capital stock of said corporation. They may adjourn said meeting to Buffalo or Lockport, or to both, if they deem it expedient, where they may again open the books, after holding them through the business hours of the day on the first meeting, but no adjournment shall be for a less time than one week. Public notice of the first meeting, shall be given ten days, and of each adjournment seven days, in one or more of the newspapers printed in the county where the meeting is to be held. The books shall be held open whenever opened by one or more of the commissioners, at least, through the regular business hours of the day, so that all persons who desire it shall have a fair opportunity of becoming subscribers; and the sum of five dollars on each share subscribed shall be paid to the said commissioners attending, at the time of making such subscription. Subscriptions to stock.

§ 6. The said commissioners, or a majority of them, shall assemble on the first Tuesday in June next, at their first place of meeting, and if the whole of the said capital stock shall not have been subscribed, may again open the books for further subscriptions, and if more than the whole stock shall have been subscribed, shall distribute the same, and apportion it among the subscribers in such manner as they shall deem most advantageous to the corporation: and after closing the said books, they shall give ten days' notice in a public newspaper in the county of Niagara, of a meeting of the stockholders to choose directors. Additional subscriptions to stock. The said commissioners, or such of them as shall attend, shall preside at the first election. And such election shall be made at the time and place appointed by the commissioners in their notice, by such of the stockholders as shall attend in person or by Election of directors.

proxy at the first and all subsequent elections, and they shall be entitled to one vote on each share of stock which they shall respectively hold, and which shall have stood in their names at least fourteen days prior to the time of any election : and the said commissioners so presiding, shall, under their hands, certify the names of the directors so elected, and deliver over the subscription money and books to the said directors, and the time and place of holding the first meeting of directors shall be fixed by said commissioners : and the directors shall have power to cause such examination of ways to, and location for said bridge, as may be necessary to the selection of the most advantageous site for the same, with the necessary and proper approaches thereto. The said directors shall select, and by certificate designate the site of said bridge and approaches, and make two certificates thereof, one of which shall be filed with the clerk of the county of Niagara, and the other filed with the secretary of said corporation, which approaches and site shall be considered the approaches to and site of said bridge, on which they may construct said bridge, and improve and perfect said approaches as herein-after mentioned.

Corporation
may purchase and
hold real
estate.

The said corporation is hereby empowered to purchase, receive, and hold, such real estate on either side of said river, as may be necessary and convenient in accomplishing the objects for which this corporation is granted, and may, by their surveyors and engineers, enter upon such sites and locations and take possession of the same. But all such sites and locations as shall be entered upon as aforesaid, shall, except donations, be purchased of the owner or owners of the same, at a price to be mutually agreed upon. In case of disagreement of price, on the east side of the river, or any other cause which shall prevent acquisition by agreement, the said directors may present their petition to the vice chancellor of the eighth circuit or to the circuit judge of said circuit, setting forth the necessity of such lands for the site of said bridge, toll houses, gates or accommodations for the officers or agents of the said company in the execution of their duties and of the attempt and failure to purchase the same, and the residence of the owner or occupier or agent, representing the same and the reason why the purchase cannot be made ; and the said vice chancellor or judge shall direct such notice to the owner or representative of said land, as he shall deem reasonable, of the time and place of hearing the parties, and upon proof, of due service of said notice, and upon hearing, the said vice chancellor or judge shall appoint three competent freeholders of said county of Niagara, to appraise said lands. The said commissioners, after giving notice to the owner, occupant or agent, or in case of absence, leaving a

written notice at his usual place of residence, shall appraise said lands and award to the owner or owners thereof, what they shall deem to be the full value of the same, and shall be authorised to examine lands, administer oaths, to hear testimony, and shall make their appraisement without delay, under their hands and seals, with minute and accurate description of the lands designated, and shall report the same to the said vice chancellor or judge, who shall examine the report and hear the parties if desired, and may increase or diminish the damages if he shall be satisfied injustice has been done. Upon proof to the vice chancellor or circuit judge within twenty days after his determination, of the payment to the owner or owners, or depositing to his credit in such bank as the chancellor or circuit judge shall direct, the amount of value of such lands, and the payment of the expenses of the application and appraisal, the said chancellor or judge shall make an order particularly describing the lands and receiving the appraisement, and the payment of the money and expenses, and the facts necessary to the compliance with this section of the act; and when the order shall be recorded in the office of the clerk of the county of Niagara, whose duty it shall be to record the same, the said corporation shall be possessed of all the lands thus ordered, and may enter upon and take possession of the same, and may perfect and improve the same as shall be deemed most useful to the said corporation.

§ 8. In case any married, woman, infant or idiot, insane person, non-resident abroad or whose residence is unknown, shall be interested in such lands, the vice-chancellor or circuit judge shall appoint some competent and disinterested person to appear before such commissioners and act for and in behalf of such infant, insane person, idiot or non-resident; and the directors of the corporation shall have power to make all reasonable by-laws and rules consistent with general laws for the government of the company and its officers or agents. But this act shall not be construed to authorize said company to appropriate any portion of Goat Island without the consent of the owner or owners thereof.

Provision in
case of mar-
ried women,
infants, &c.,

§ 9. The said corporation shall possess the general powers and be subject to the general restrictions and liabilities prescribed by such parts of the eighteenth chapter of the first part of the Revised Statutes as are not repealed.

General powers.

§ 10. If any person shall willfully do or cause to be done any act or acts whatever, whereby said bridge or any work or approach appertaining thereto shall be obstructed, impaired, weakened, injured or destroyed, the person so offending, shall forfeit to the said corporation treble damages sustained by means of such offence, or injury, to be recovered in the name

Penalty for
injuring
bridge.

of the corporation with costs of suit by action of debt ; and shall moreover be guilty of a misdemeanor, and be punished by fine or imprisonment, or both, by any court having cognizance of the offence.

Rates of toll.

§ 11. Whenever the said bridge shall be fully completed and its safety tested, and the fact certified by one or more, of the judges of the county court of the county of Niagara, not interested, the said company may erect toll gates, fix the rates of tolls, and make such erections as the directors shall deem expedient to guard the entrances on to said bridge. But no greater tolls than the following shall be charged viz: For every foot passenger entering upon, or passing over twenty five cents ; For every horse and single carriage fifty cents, and an addition of eighteen and three fourth cents for every passenger actually travelling in such carriage, and all other passengers twenty five cents each ; For double carriages and two horses, one dollar, and the same rates for passengers, and twenty five cents for each additional horse in such double carriage ; For sheep passing, one and a half cents a head ; For swine two cents each, and for neat cattle six cents each.

Penalty for forcing the gates.

§ 12. If any person shall force or attempt to force any of the gates without having paid the established toll, such person shall forfeit and pay to the said corporation five times the amount of legal toll, to be recovered in manner aforesaid.

Time limited

§ 13. If the said bridge shall not be constructed within five years after the passing of this act, then the said corporation shall from thenceforth cease.

Right to repeal.

§ 14. The legislature may at any time, alter or repeal this act.

CHAP. 105.

AN ACT for the relief of John O. Frazee, Julius C. Foster and Benjamin Frazee.

Passed April 23, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Settlement to be made.

§ 1. The canal commissioners are hereby authorized and directed to settle with John O. Frazee, Julius C. Foster and Benjamin Frazee, for the work done on sections one hundred and twenty-three and one hundred and twenty-four of the Erie canal enlargement, being the new line of said canal running through the village of Rome, according to the terms of their contracts for constructing said sections of the canal,

and the commissioners of the canal fund shall pay them such sum of money as shall be found due to them on their said contracts, together with interest from the time the state made use of said new canal; the amount that may be found due to be paid out of such fund as shall be hereafter appropriated for the payment of arrearages to canal contractors.

§ 2. This act shall take effect immediately.

CHAP. 106.

AN ACT to amend an act entitled "*An act to annex the towns of Eagle and Pike and part of Portage to the county of Wyoming,*" passed April 1, 1846.

Passed April 24, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ The proceedings of the town meetings which were held on the fourteenth day of April 1846, one at the house of Philip Boroughs in the town of Portage, in the county of Allegany, and the other at the house of Anson Tinkham in the town of Genesee-Falls in the county of Wyoming, are hereby confirmed. The officers who were elected at the said several town meetings, are authorized to give notice of acceptance or take the oath of office as the case may be, within ten days after the passage of this act. Proceedings confirmed.

§ 2. The paupers in the county poor house of Allegany county, from the towns of Eagle and Pike, and from that part of the town of Portage which has been annexed to the county of Wyoming, may be removed as soon as practicable by the superintendents of the poor of the county of Allegany, with the assent of the superintendents of the poor of the county of Wyoming, to the county poor house of the said county of Wyoming, and all expenses incurred by the said county of Allegany for the support and removal of such paupers since the first day of November last until their removal, to be certified by the said superintendents of the poor of the county of Allegany, shall be raised and levied by the board of supervisors of the county of Wyoming, at their next annual meeting, and when collected shall be paid to the treasurer of the county of Allegany. Paupers to be removed.

§ 3. This act shall take effect immediately.

CHAP. 107.

AN ACT *authorizing the President, Directors and Company of the Cochection Bridge Company, to establish a ferry across the Delaware river.*

Passed April 24, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Company
may es-
tablish
ferries.

§ 1. It shall be lawful for the president, directors and company of the Cochection Bridge Company to establish and maintain a ferry across the Delaware river, at or near the place where the Cochection bridge lately stood, for three years from the passage of this act, or until the said Cochection bridge shall be rebuilt by the said company or a new company chartered for the purpose ; provided, however, that the said bridge shall be rebuilt within the period of three years from the passage of this act.

Ferry boats.

2. The said company shall provide and keep a sufficient number of convenient ferry boats for the conveyance of carriages, horses, cattle, passengers and merchandize across the said river.

Rates of fer-
riage.

§ 3. After the said ferry shall be established, the said company shall be entitled to take and receive for ferriage across the said river, tolls at and after the rates particularly specified in section eleven of the act entitled "An act to incorporate the Cochection Bridge Company," passed April 7th, 1817.

Restriction.

§ 4. It shall not be lawful for any person or persons to erect any ferry, or convey passengers across the said river, within one mile up or down the said river from the place where the said ferry shall be established by the said company.

Right to
repeal.

§ 5. The legislature may at any time alter, modify or repeal this act.

§ 6. This act shall take effect immediately.

CHAP. 108.

AN ACT to legalize and make valid certain conveyances and trusts for the Community of True Inspiration.

Passed April 29, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All deeds of joint tenancy, and all deeds of trust to real and personal estate, executed and delivered since the first day of January, eighteen hundred and forty-three, or hereafter to be executed to any persons in joint tenancy, or in trust for the religious community called "The community of True Inspiration," in the towns of Chicktawaga, Lancaster and Hamburgh, shall be valid and effectual to vest in the joint tenants and trustees the legal estates and interests purported to be conveyed by such deeds, to and for the uses and purposes declared therein, or declared by any declaration of trust executed by such joint tenants and trustees, and contained in the religious constitution of said community, or in the amendments thereto; and such legal estates, joint tenancies and trusts may be continued so long as may be required for the purposes of the trust, by conveyances from the joint tenants and trustees named in such deeds, to other trustees appointed by said community, and by conveyances from them to others appointed in like manner.

Deeds confirmed.

§ 2. The Legislature may at any time alter, modify or repeal this act.

CHAP. 109.

AN ACT concerning the District Attorney of the county of Orange.

Passed April 29, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The district attorney of the county of Orange shall receive for his services as such district attorney, in lieu of the fees now allowed by law, a salary at the rate of five hundred dollars a year; to be settled and paid by the board of supervisors of said county annually.

Salary \$500.

§ 2. No laws of this State, relative to the fees of district

Fees.

attorneys, now in force, which are inconsistent with the provisions of this act, shall extend to the county of Orange.

§ 3. This act shall take effect immediately.

CHAP. 110.

AN ACT to annex a part of the town of Shawangunk to the town of Plattekill, in the County of Ulster.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Part of
Shawangunk
annexed to
Plattekill:

§ 1. All that part of the town of Shawangunk, in the county of Ulster, included within the following described bounds, to wit : Beginning at the centre of the Walkill, at the southwesterly corner of the town of New-Paltz, and running thence along the south line of said town of New-Paltz south eighty-four degrees east, one hundred and fifty-seven chains, to a stone standing in New-Paltz line, being a corner stone between Shawangunk and Plattekill; thence south twenty-six degrees west, two hundred and six chains and twenty-three links, along the lines of Shawangunk and Plattekill, to the centre of a large white rock near New Hurley church; thence south sixty-six degrees and thirty minutes east, eighty-five chains and ninety links, to a stone for a corner between Shawangunk and Plattekill aforesaid; thence south twenty-seven degrees west, one hundred and four chains and thirty-four links, to the Rip Van Dam corner, being the corner stone between Shawangunk and Plattekill and the county of Orange; thence north sixty-six degrees and thirty minutes west, two hundred and thirty-seven chains, along the lines of Peter Barbarie and Rip Van Dam, to the centre of the Walkill; thence a northerly direction along the centre of the Walkill as it winds and turns, to the beginning, shall, from and after the passage of this act, be annexed to and form a part of the town of Plattekill in the county of Ulster aforesaid.

Shawangunk
to remain.

§ 2. All the remaining part of the town of Shawangunk shall continue to be and remain a separate town by the name of Shawangunk.

§ 3. This act shall take effect immediately.

CHAPTER 111.

AN ACT *for the preservation of fish in the Otisco lake.*

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. No person shall hereafter, at any time, take with ^{Restriction.} any net or seine, any fish commonly called Pickerel, from the Otisco lake, in the county of Onondaga and state of New-York.

§ 2. Whoever shall violate any of the provisions of the ^{Penalty.} preceding section of this act, shall for every offence forfeit the sum of twenty-five dollars.

§ 3. All penalties imposed by this act may, by any person, be sued for and ^{How recovered.} recovered with the cost of such suit, before any justice of the peace of said county, by or in the name of any one of the superintendents of the poor of said county ; and if sued by any person not such superintendents, such person shall give security to such justice, to pay all costs in case he shall fail to recover judgment in such suit; and the penalty or penalties so recovered, when collected, shall be paid by such justice, one half to the superintendents of the poor for the use of the poor, and the other half to the person by whom such suit shall be brought.

§ 4. This act shall take effect immediately.

CHAP. 112.

AN ACT *to amend the act entitled " An act to improve the road from Ogdensburgh to Canton in the county of St. Lawrence," passed April 26, 1831.*

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The judges of the court of common pleas of the county of St. Lawrence, are hereby authorized and required to take under their care, for the purpose of keeping the same in repair, one mile of the road between Ogdensburgh and Canton not now under their care and supervision, which mile of road shall commence at the easterly termination of that part of the aforesaid road which is now in the care of the said judges. ^{The judges to take charge of part of road.}

Amount to
be retained
by them.

§ 2. The accounts to be audited pursuant to the ninth section of the act entitled "An act to improve the road from Ogdensburgh to Canton in the county of St. Lawrence," passed April 26, 1831, shall be retained by them out of the monies collected for tolls on said road, and shall not hereafter be a county charge.

§ 3. This act shall take effect immediately.

CHAP. 113.

AN ACT for the preservation of Eels in the town of Southampton in the county of Suffolk.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Restriction.

§ 1. No person or persons shall catch or take any Eels in the waters of either Mecox Bay or Shinnecock Bay in the town of Southampton in the county of Suffolk, by means of any seine made for the purpose of catching eels, or fine meshed seines; and the said Shinnecock bay means from the eastern extremity thereof near the village of Southampton to the western extremity of the same at the village of Quogue.

Penalty.

§ 2. Any person or persons who shall violate the provisions of the first section of this act shall forfeit the sum of twenty-five dollars.

How recovered.

§ 3. Any person may in his own name prosecute for and recover the penalty specified in this act, for himself and the overseers of the poor of the said town, and on recovery shall be entitled to retain one half of the said penalty; and the other half, after deducting one half of the expenses of the prosecution, shall be paid to the overseers for the support of the poor of the said town.

§ 4. This act shall take effect immediately.

CHAP. 114.

AN ACT to provide for the education of the children of the Onondaga Indians in the county of Onondaga, and the children of the other Indians residing in this state.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The agent of the Onondaga Indians in the county of Onondaga, appointed under the authority of this state, is hereby authorized, with the consent of the chiefs of the said tribe of Onondaga Indians, to cause to be built and furnished a good and sufficient school-house on the Onondaga reservation, at an expense not exceeding three hundred dollars, for the accommodation of the Indian children residing on such reservation ; and to organize a school therein, and the sum of three hundred dollars is hereby appropriated for the payment of the expense of erecting and furnishing said school house.

§ 2. The sum of two hundred and fifty dollars annually is hereby appropriated for the term of five years, for the payment of the wages of a teacher or teachers, and of the other expenses of maintaining such school.

§ 3. The sum of three hundred dollars is also hereby appropriated for the building and furnishing a school-house on the Cattaraugus Indian reservation, and the like sum for building and furnishing a school-house on the Allegany reservation for the use, accommodation and education of the Indian children residing on such reservation respectively.

§ 4. The sum of three hundred and fifty dollars per year for the term of five years, is hereby appropriated for the payment of the wages of a teacher or teachers for the school or schools to be kept in said school-house on the said Cattaraugus reservation, and for the payment of the other expenses thereof; and the further sum of three hundred dollars is hereby appropriated for the payment of the wages of a teacher or teachers for the school or schools to be kept in said school-house on the said Allegany reservation, and for the payment of the other expenses of such schools.

§ 5. The sums appropriated by the first and second sections of this act shall be paid from time to time to the said agent of the Onondaga Indians on his giving to the people of this state and filing with the state superintendent of common schools, a bond with satisfactory sureties, to be approved by such superintendent, conditioned for the proper and faithful

expenditure of all moneys paid to him, or which shall come into his hands by virtue of this act, and for the rendering to such superintendent annually, in the month of October, a just and true account of all his receipts and expenditures under the provisions of this act.

By the 3d &
4th sections
to whom paid

§ 6. The sums appropriated by the third and fourth sections of this act, shall be paid from time to time, to Griffith M. Cooper and Stephen Osborn, or the survivor of them as commissioners, under the third, fourth and sixth sections of this act, on their severally giving to the people of this state, and filing with the state superintendent of common schools, a bond with satisfactory sureties to be approved by the said superintendent, conditioned for the proper and faithful expenditure of all monies paid to him, or which shall come into his hands by virtue of this act, and for the rendering to such state superintendent annually, in the month of October, a just and true account of all his receipts and expenditures by virtue of this act.

St. Regis
Indians.

§ 7. The sum of two hundred and fifty dollars is also hereby appropriated for the building and furnishing a school house on the lands of the St. Regis Indians, in this state; and the further sum of two hundred dollars per year, for the term of five years, is hereby appropriated for the payment of the wages of a teacher for the school, to be kept in said school house, and for the payment of the other expenses of said school. The moneys appropriated by this section shall be paid from time to time to the agent of the said St. Regis Indians, on his giving to the people of this state, and filing with the state superintendent of common schools, a bond with satisfactory sureties, to be approved by such superintendent, conditioned for the proper and faithful expenditure within this state, of all moneys paid to him, and which shall come into his hands by virtue of this act, and for rendering to the said superintendent annually, in the month of October, a just and true account of all his receipts and expenditures by virtue of this act.

Payments
to be made
from U. S.
deposit fund.

§ 8. The sums hereby appropriated shall be paid out of the income of the United States deposit fund; and the last two of the several annual payments herein provided for, shall not be paid for the Indians residing on either of said reservations, unless the Indians on such reservation shall, before such payment in each year, pay into the hands of the persons authorised to receive and expend the monies appropriated by this act, at least twenty per cent of the sum authorised to be paid annually for the maintenance of the school on such reservation; nor shall any of the said annual payments except the first, be made unless the state superintendent of common schools shall have satisfactory evidence that a school has

been kept in said school house for the term of at least six months during the preceding year ; such twenty per cent shall be expended by such commissioners for the support and maintenance of the school or schools on the reservation, occupied by the Indians paying the same.

§ 9. The schools organized and established by virtue of this act, shall be subject to the visitation and inspection of the superintendent of common schools of the town and county where the same shall be situated. Schools subject to visitation.

CHAP. 115.

AN ACT to authorize the Canal Commissioners to commute with the town of Rotterdam in relation to a bridge over the Erie canal.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal commissioners, if they shall deem it for the interest of the state, are hereby authorized to commute with the commissioners of highways of the town of Rotterdam in the county of Schenectady, by paying said highway commissioners such a sum as they may think just and proper for the right to abandon a certain bridge in said town, called the Mile bridge. Right to commute.

§ 2. This act shall take effect immediately.

CHAP. 116.

AN ACT to authorize certain officers of Livingston county to allow and audit certain town accounts.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The supervisors and town clerks of North Dansville, Sparta and West Sparta in the county of Livingston, and their successors in office, shall constitute a board for the purpose of auditing and allowing the accounts of all charges and claims against the said towns, when they were united and known by the name of Sparta. Board to audit accounts of certain towns.

When to meet.

§ 2. The said board of auditors shall meet at the house of Peter Drisbach in the said town of Sparta, for the transaction of business, at such time in the month of June next, as shall be agreed upon by any four members thereof, and may organize and adjourn from time to time, as may become necessary for the transaction of business.

Officers of the former town of Sparta to account.

§ 3. The commissioners of highways, the overseers of the poor, the superintendents of common schools, assessors, supervisors, and all other officers of the former town of Sparta, shall be responsible and account to and with the said board of auditors in the same manner in which they would or should have accounted to and with their successors in office, if the said former town of Sparta had not been divided.

Necessary accounts to be apportioned.

§ 4. If it shall be necessary to pay any accounts, charges, or damages allowed by such board, the same shall be by them apportioned and charged upon the said towns in proportion to the value of the real and personal estate as ascertained by the last assessment roll of said former town of Sparta, and shall be levied and collected upon and from the taxable property of said towns respectively, as other town charges against said towns are authorized and required to be levied and collected by existing laws.

Board of auditors to make and file certificate.

§ 5. The said board shall make a certificate of their doings, by virtue of this act, showing in detail the final accounts and claims by them audited and allowed, and their apportionment of the aggregate amount thereof upon the said towns, and they shall file duplicates thereof in the office of the town clerks of said towns respectively.

Expenses to be paid.

§ 6. The expenses of said board shall be paid by said towns respectively and equally.

Balance to be paid to auditors.

§ 7. If any balances shall be found in the hands of the said overseers of the poor, or of the superintendent of schools, or the commissioners of highways, or the supervisors or other officers of the old town of Sparta, the same shall be collected and paid to said board of auditors, and shall be paid over to the said three towns in proportion to the equitable claims of each respectively to be determined by said board.

§ 8. This act shall take effect immediately.

CHAP. 117.

AN ACT to provide for levying a tax on the town of Massena for building a bridge:

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the board of supervisors of the county of St. Lawrence at their next annual meeting, to cause Money to be raised by tax to be assessed, levied and collected by tax on all the taxable inhabitants of the town of Massena in said county, eight hundred and seventy-three dollars.

§ 2. Such money, when collected, shall be paid to the Now applied commissioners of highways of said town, and by them applied to the payment of the debts of said town contracted for the purpose of building a bridge across Grass river, at the village of Massena.

§ 3. This act shall take effect immediately.

CHAP. 118.

AN ACT in relation to crimes punishable with death.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. If in any county there shall not be a jail, or the jail erected shall become unfit or unsafe for the confinement of prisoners, or shall be destroyed by fire or otherwise, and the judges of county courts of such county, or any three of them shall have according to law designated the jail of some contiguous county for the confinement of the prisoners of their county, it shall be the duty of the sheriff of the county in which any convict sentenced to death shall be confined, to attend upon the day appointed for the executing of the sentence at the jail of said county designated by said judges, and there conduct the proceedings, and execute the sentence in all respects as if the jail was located in the county where such conviction was had. Convicts sentenced to death where to be confined and executed in certain cases.

§ 2. This act shall take effect immediately.

CHAP. 119.

AN ACT to authorize the trustees of the school district at the village of Williamsville, in the town of Amherst and county of Erie, to make separate rate bills, for the higher and primary departments of the schools kept in said districts.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Separate
rate bills to
be made.

§ 1. The trustees of the school district at the village of Williamsville, in the town of Amherst and county of Erie, are hereby authorized, if the inhabitants of the said district shall at any regular school district meeting so direct to make thereafter, and until the said inhabitants shall in like manner otherwise direct, separate and distinct rate bills, for the payment of the wages of the teachers in the primary and in the higher department of the schools kept in the said district, in such manner as to collect on account of scholars attending each department, such balance as may be justly due for the wages of the teacher or teachers in that department, after the application to that purpose of such share of the public moneys as shall be apportioned to each department by such trustees, by giving to each such proportion of the whole sum applicable to the payment of teachers' wages in both departments, as the number of scholars who shall have attended such department during the time for which such rate bill is to be made, shall bear to the whole number of scholars attending both of such departments during the same period.

§ 2. This act shall take effect immediately.

CHAP. 120.

AN ACT in relation to district attorneys, and to prevent their law partners from acting as counsel in certain cases.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Restriction
as to law
partners of
district attor-
neys.

§ 1. No attorney, solicitor or counsellor, shall directly or indirectly advise in relation to, or aid, or take any part whatever in the defence of any cause, matter, suit or proceeding which shall be brought, carried on, aided, advocated or pro-

secuted in any court of civil or criminal jurisdiction, by any person as district attorney, or other public prosecutor with whom he shall be interested or connected, either directly or indirectly, as a partner in the same or any other court; or take or receive, directly or indirectly, of or from any defendant therein, any fee, gratuity or reward, for or upon any cause, consideration, pretence, understanding or agreement whatever, either express or implied, having relation thereto, or to the prosecution or defence thereof.

§ 2. No attorney, solicitor or counsellor, who shall have brought, carried on, aided, advocated or prosecuted, or shall have been in any wise connected with any cause, matter, suit or proceeding in any court, as district attorney, or other public prosecutor, shall at any time thereafter, directly or indirectly advise in relation to, or aid or take any part whatever in the defence thereof, or take or receive, either directly or indirectly, of or from any defendant therein, or other person, any fee, gratuity or reward, for or upon any cause, consideration, pretence, understanding or agreement whatever, either express or implied, having relation thereto, or to the prosecution or defence thereof.

Restriction as to attorneys, solicitors or counsellors who acted as district attorneys.

§ 3. Every attorney, solicitor or counsellor who shall violate either of the two preceding sections, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine or imprisonment, or both, at the discretion of the court; and he shall be removed from office in the several courts in which he is licensed.

Penalty.

§ 4. This act shall not be construed to prohibit any attorney, solicitor or counsellor from defending himself in person, if prosecuted, either civilly or criminally.

Saving clause.

CHAP. 121.

AN ACT in relation to the Supreme Court Commissioner residing in the western part of Monroe county.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The fourth section of the act entitled, "An act to authorize the appointment of a supreme court commissioner to reside in Norwhich in the county of Chenango, and for other purposes" passed April 12, 1843, is hereby so amended as to read as follows:

Section amended.

§ 4. The supreme court commissioners appointed, or to be appointed under the provisions of an act entitled "An act

Powers and duty of commissioner.

directing the appointment of a supreme court commissioner in the western part of the county of Monroe" passed May 14, 1836, shall be empowered and required to perform all the duties and execute any act and trust which the first judge of the degree of counsellor at law in the supreme court of the county courts of the county of Monroe may perform or execute out of court relating to such courts, according to law, and the rules and practice thereof.

§ 2. This act shall take effect immediately.

CHAP. 122.

AN ACT relating to the dockets of judgments in the office of the clerk of the city and county of New-York.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Dockets
when to be
copied.

§ 1. Whenever any of the dockets of judgments or transcripts of the judgments, or any other books of record in the office of the clerk of the city and county of New-York, become mutilated or injured by use, so that they cannot be conveniently examined, and the supervisors of the said city and county shall have authorised them to be copied, the said copies when certified by the said clerk to be correct copies of the originals, shall have the validity of the said originals.

§ 2. This act shall take effect immediately

CHAP. 123.

AN ACT for the relief of John Moot.

Passed April 30, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Act of April
4, 1845, ex-
tended.

§ 1. The provisions of the act entitled "An act for the relief of certain purchasers of lands in the Oneida reservation, in 1840 and 1841," passed April 4, 1845, are hereby extended to John Moot, provided the certificate issued to John and Daniel Crouse, who in the year one thousand eight hundred and forty, became the purchasers of lot number three

in said reservation, for the benefit of said Moot, shall be surrendered to the comptroller of the state.

§ 2. This act shall take effect immediately.

CHAP. 124.

AN ACT to incorporate the Submarine Telescope Company.

Passed May 1, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders pursuant to this act, are hereby constituted a body corporate, by the name of "The Submarine Telescope Company," for the term of twenty years, for the purpose of manufacturing and using, and vending to others submarine telescopes and lamps ; also for manufacturing all implements, instruments and machinery requisite and necessary, for the purpose of examining and repairing the bottom of vessels under water, and for raising from under water any article or property or otherwise used in connection with the submarine telescope and lamp ; and for conducting or carrying on any business in which the submarine telescope and lamp can be used or employed ; and the office of said company shall be established in the city of New-York. Corporation created.

§ 2. The capital stock of said company shall be one hundred thousand dollars, with the privilege of extending the same to two hundred thousand dollars, to be divided into shares of twenty-five dollars each. Capital stock.

§ 3. The stock, property, affairs and concerns of said company, shall be managed by five directors, who shall be stockholders, and shall be elected on the second Tuesday of May, of each and every year ; and all such elections shall be by ballot, and by plurality of votes of the stockholders, each share to have one vote ; and the stockholders not personally attending, may vote by proxy ; and the directors so elected shall, as soon as may be after their election, choose by ballot one of their number to be their president ; and the directors shall continue in office one year, and until others be elected ; and if any vacancy or vacancies shall at any time happen by death or resignation, the remaining directors may fill such vacancy or vacancies for the remainder of the year. Affairs how managed.

§ 4. The first directors of said company shall be John T. Hildreth, Lewis B. Woodruff, Reuben Rowley, William H. Starr and Richard L. Wycoff, who shall elect one of their First directors.

number president, and shall severally hold their office until the second Tuesday of May, in the year eighteen hundred and forty-seven, and until others shall be elected in their stead. If an annual election for directors should not be held pursuant to the provisions of this act, the directors for the time being, shall continue in office until others are elected.

Subscrip-
tions to stock

§ 5. The directors named in this act, or any three of them, shall be commissioners for receiving subscriptions and distributing stock; and on such days and at such places as they may from time to time appoint, open books to receive subscriptions to the capital stock of said company, and may continue the same open until the whole of the capital stock shall be subscribed.

Calls on
stockholders.

§ 6. It shall be lawful for the directors to require payment of the sums subscribed to the capital stock, at such times and in such proportions, and on such conditions as they shall see fit, under the penalty of the forfeiture of all previous payments thereon; and shall give notice of the payments thus required, and of the time and place when and where the same are to be made, at least thirty days previous to the payment of the same, in a newspaper printed in the city of New-York.

Company
may pur-
chase patent
right from S.
P. Mather.

§ 7. It shall be lawful for the said directors to negotiate and agree with Mrs. Sarah P. Mather of the city of Brooklyn, for the purchase from her, for the said company, the patent granted to her as the inventress of the submarine telescope and lamp, and to pay her the price or sum that may be agreed upon therefor, in cash, or the stock of said company, or both; which stock it shall be, and hereby is declared lawful for her to subscribe for, and to take, hold and enjoy, and also all the proceeds, dividends, profits and benefits thereof to her own separate use, free and independent of her husband and his creditors, and she may transfer and dispose thereof, and in every respect perform all acts in relation thereto, and the proceeds thereof, in the same manner as if she was unmarried.

Estate.

§ 8. The said company shall have power to take and hold such real estate as may be necessary for the transaction of its business, not exceeding in value the sum of twenty thousand dollars, and also build, purchase, and own boats and vessels, and manufacture, purchase and own implements, machinery and apparatus, as its business may require.

General
powers.

§ 9. The said company shall possess the general powers, and be subject to the liabilities and restrictions of a corporation, as defined in title third, of chapter eighteen, of the first part of the Revised Statutes.

Restriction.

§ 10. No contract shall at any time be entered into by said company, creating a debt or liability, for which a credit

or future day of payment shall be given to the said company ; and all indebtedness arising against the said company shall be discharged or paid at the time of creating the same, or before, or upon the receipt of the consideration for which such payment or payments are made.

§ 11. The stockholders of said company shall be jointly and personally liable for all debts incurred or owing by said company whilst they shall be stockholders thereof, in violation of the last preceding section, but no suit shall be brought against any stockholder or stockholders for the recovery of any such debt, until after an execution shall have been returned unsatisfied in whole or in part, upon a judgment recovered therefor, in a suit brought against said company in their corporate capacity. Liability of stockholders

§ 12. The Legislatnre may at any time alter, modify or repeal this act. Right to repeal

CHAP. 125.

AN ACT to amend an act entitled "*An act to incorporate the Cochection Bridge Company,*" passed April 7th, 1817.

Passed May 2, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the directors of the Cochection Bridge Company for the time being, to make calls and require payment of the stockholders of the said bridge company for such sums and in such instalments, not exceeding the nominal amount of the stock, as may be necessary and required to rebuild or repair their bridge, at such times and upon such notice as the said directors shall direct, and upon the penalty of forfeiture to the said company of the shares held by any defaulting stockholder, who may refuse to pay such calls or instalments as may be from time to time made by the resolution of the said board of directors, for the purpose of repairing or rebuilding said bridge. Calls on stockholders

§ 2. It shall be lawful for the directors aforesaid, for the purpose of insuring the means of repairing or rebuilding said bridge, in case of a forfeiture of any of the present stock, that they appoint three disinterested judicious men to value the property of said company, and that the present stockholders do take such valuation in new stock, and surrender their old scrips ; and said directors are hereby authorised to Valuation to be made.

issue new stock or scrip, to an amount sufficient to repair or rebuild said bridge.

§ 3. This act shall take effect immediately.

CHAP. 126.

AN ACT to authorize the Supervisors of Onondaga county to purchase land adjoining the Poor House in said county.

Passed May 2, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Land may
be purchased

§ 1. If a majority of the supervisors of the county of Onondaga shall deem it best, they are hereby authorized to purchase a piece of land adjoining the present poor house lot in said county, not exceeding ten acres, upon such terms as they may deem proper.

How to be
paid for.

§ 2. The price of the land mentioned in the first section of this act, shall be levied and collected of the taxable inhabitants of the county of Onondaga, in the same manner that other county taxes are levied and collected.

CHAP. 127.

AN ACT to build and repair two certain roads in the towns of Moriah and Elizabethtown, in the county of Essex.

Passed May 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be
raised by tax

§ 1. There shall be raised by tax on the towns of Moriah and Elizabethtown, in the county of Essex, the sum of seven hundred and fifty dollars each, for the purposes and in the manner following : two hundred and fifty dollars shall be raised on each of said towns annually, for three years next ensuing, to be levied and collected at the time and in the same manner as county taxes, and when raised shall be paid to commissioners hereinafter named, for the purposes hereinafter set forth.

How to be
expended.

§ 2. The said commissioners shall expend two-thirds of the money so raised in making and repairing the road from the village called "Moriah Four Corners," in Moriah, to the village of Elizabethtown, both in said county ; and the

remaining one-third shall be expended in repairing the road from the village of Elizabethtown aforesaid, to the house now kept by A. R. Delance, in West Moriah, so called, in said county.

§ 3. Said commissioners may borrow money at a rate of interest not exceeding seven per cent for the purposes aforesaid, should they deem it best to expend said moneys sooner than the said sums are to be raised by the provisions of this act ; and any sums so borrowed, said commissioners, or their successors, shall repay out of the sums so to be raised, with interest thereon ; but the sums so borrowed, and the interest thereon, and the allowance to said commissioners for their services shall not exceed the amount of money authorised to be raised by this act. Money may be borrowed

§ 4. Nathaniel Storrs and David Judd are hereby appointed commissioners to make and repair the roads, and expend the money as authorised by this act ; and in case either of said persons shall refuse to act, or shall die, the judges of the court of common pleas of said county of Essex may appoint a substitute or successor from time to time to fill any vacancy that may happen in said commission ; and any person so appointed shall give a bond, as hereinafter provided. Commissioners.

§ 5. Before entering upon their duties as such commissioners, they shall each give a bond, with two sufficient sureties, to the people of this State, in the penal sum of three thousand dollars, with a condition that he will faithfully perform all duties imposed upon him as commissioner by this act ; and in case of a breach of a condition of said bond, the same shall be prosecuted by the district attorney of the county of Essex, and all sums recovered thereon, after deducting the costs of said prosecution, shall be applied to the making and repairing said roads as above directed. The sureties in said bonds shall be approved by the clerk of said county, and shall be filed with said clerk. They shall give bond.

§ 6. Said commissioners shall receive, out of said sums so raised, each two dollars per day for the time necessarily spent as such commissioners, and shall annually, while acting as said commissioners, file a statement of their receipts and expenditures, and the items thereof, including the compensation for their own services, with the clerk of the board of supervisors of the county of Essex, at the annual meeting of said board. Their pay.

CHAP. 128.

AN ACT for the relief of Seymour N. Marsh.

Passed May 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages to
be ascertain-
ed.

§ 1. The canal appraisers are hereby authorized and required to ascertain and appraise the damages, if any sustained by Seymour N. Marsh, to his flat lands, situate along the Mohawk river, in the town of Palatine and county of Montgomery, by the enlargement of the Erie canal. The said appraisement of damages shall be made in the same manner and subject to the same rules and appeals as if the land alleged to be worn away on the north side of said river had been appropriated for said enlargement.

Payment to
be made.

§ 2. The commissioners of the canal fund are hereby authorized and required to pay to Seymour N. Marsh, or to his personal representatives, out of any money in their hands, appropriated or hereafter to be appropriated for the payment of canal damages, such sum as shall be thus ascertained and appraised by virtue of this act.

§ 3. This act shall take effect immediately.

CHAP. 129.

AN ACT concerning the office of District Attorney of the county of Allegany.

Passed May 4, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Salary, \$300.

§ 1. The district attorney of the county of Allegany shall receive for his services in criminal cases, in lieu of the compensation now allowed by law, an annual salary of three hundred dollars, to be paid by the board of supervisors of said county.

Act of 1839
not to apply
to Allegany
county.

§ 2. The act to regulate the fees of district attorneys, and to repeal the several acts relating to the same, passed May 7, 1839, and so much of title eight, chapter second, and part fourth of the Revised Statutes, as relates to the fees of district attorneys, as is inconsistent with the provisions of this act, shall not extend to the county of Allegany.

§ 3. This act shall take effect, on and after the second Tuesday of November next. When to take effect.

CHAP. 130.

AN ACT for the relief of Thomas Beavan.

Passed May 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

The treasurer shall, on the warrant of the comptroller, pay to Thomas Beavan the sum of sixty-two dollars and forty-eight cents, together with lawful interest thereon from the twenty-ninth day of August, eighteen hundred and forty-four, in full for his claim against the state for a deficiency in the number of acres in lot number thirteen, in the first tract of state lands in the town of Windsor, Broome county, New York, patented and conveyed to the said Beavan by the state on or about the twenty-ninth day of August, eighteen hundred and forty-four; which said sum when paid shall be charged to the common school fund. Money to be paid to T. Beavan.

§ 2. This act shall take effect immediately.

CHAP. 131.

AN ACT for the relief of Thomas Beach Clarke, and to authorize the collection of taxes in the town of Williamsburgh.

Passed May 4, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the supervisor of the town of Williamsburgh in the county of Kings, to issue to Thomas Beach Clarke of said town, a warrant under his hand and seal, authorizing him within sixty days after the date of said warrant to collect the taxes assessed on the property of non-residents in the first district of said town, in the year one thousand eight hundred and forty two, which remained uncollected upon the assessment roll, at the expiration of the warrant issued to the said Thomas Beach Clarke, as collector for said district in that year. Warrant to be issued to collect taxes.

Powers conferred on T. B. Clarke.

§ 2. The said Thomas Beach Clarke shall, by virtue of the said warrant, so to be issued to him as aforesaid, have all the powers for the collection of said taxes, which are possessed by collectors for the collection of annual taxes, and shall be entitled to retain to his own use all the monies which shall be collected by him under the provisions of this act.

§ 3. This act shall take effect immediately.

CHAP. 132.

AN ACT concerning the Natural History of the State of New-York.

Passed May 5, 1846,

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Secretary of state to sell Nat. Hist. to academies &c.

§ 1. The secretary of state is hereby authorised and directed to sell to such of the academies, public libraries and literary associations in this state which are now incorporated, as shall have made or which shall make application therefor, a copy of the Natural History of this state, at the price of one dollar per volume, and a copy of the Geological Map of the state at the price of one dollar per copy, out of the remaining three hundred copies of the said volumes and maps reserved for that purpose by the second section of the act entitled "an act in relation to the Natural History of New-York," passed May 3, 1844; but no sale of the said volumes and map shall be made by the said secretary of state after the expiration of one year from the passage of this act, nor a second copy to an institution which has received a copy of the said work under the provisions of chapter 254, of the laws of 1844.

Time limited

Provision relative to certain purchasers.

§ 2. Any person, corporation, or association, other than such as purchase from the several county treasurers of this State, under the act entitled "an act in relation to the Natural History of New-York," passed May 3d, 1844, who shall, within one year from the passage of this act, prove to the satisfaction of the Governor and Secretary of State that he, she or they, are the actual and bona fide owners of the first volumes or of any of the consecutive volumes, beginning with and including the first of the Natural History of this State, shall be entitled to purchase from said secretary the remaining volumes necessary to complete such imperfect sets of said Natural History, now published and which shall hereafter be published, together with the map accompanying the same, at the price of one dollar per volume and one dollar

for said map; but no person who shall become such owner of the said first volume or of any of the said consecutive volumes, beginning with and including the first as aforesaid, under the fifth section of the act entitled "an act relating to the Geological survey of the state" passed April 9th, 1842, shall be entitled to such remaining volumes, except upon payment of one dollar per volume for all such previous volumes of which he shall have become the owner as aforesaid.

§ 3. If the booksellers with whom contracts for the sale of the said work were heretofore entered into, shall deliver to the secretary of state unsold copies thereof forming complete sets of the same, as far as published, the said governor and secretary are hereby authorized to sell and dispose of such complete sets with the volumes remaining to be published and the said maps, at the price of one dollar per volume and one dollar for said map.

Provision respecting complete sets of the work.

§ 4. The governor and secretary of state are hereby authorized to sell the copy right of said work in separate portions or otherwise as soon as the remaining volumes thereof shall be published.

Copy-right may be sold.

§ 5. It shall be the duty of the several county treasurers of this State, in selling the volumes of the Natural History of New-York, in pursuance of the act entitled "an act in relation to the Natural History of New-York," passed May 3d, 1844, to sell and deliver the volumes of said Natural History, first to any such person or association as shall within six months after such treasurer shall have received hereafter the several volumes of said Natural History, prove to the satisfaction of said treasurer, that he, she or they, are the present bona fide owners of the preceding volumes of said Natural History, sold under the said act of May 3d, 1844, by the treasurer of the same county to whom application shall be made.

Duty of county treasurers.

§ 6. This act shall take effect immediately.

CHAP. 133.

AN ACT to repeal the act entitled "*An act to improve the post road running from the Elephant Hotel in the town of Somers to the village of Peekskill,*" passed May 13, 1845, and for other purposes.

Passed May 6, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Repeal.

§ 1. The act entitled "*An act to improve the post road running from the Elephant Hotel in the town of Somers to the village of Peekskill,*" passed May 13, 1845, is hereby repealed.

Alterations
in route ad-
mitted.

§ 2. All alterations and changes in the route or line of the said post road, as the same existed at the time of the passage of the act hereby repealed, and all deviations therefrom, designated or laid out by the commissioners appointed in and by the said act, and in pursuance thereof, are hereby annulled, and discontinued, and are declared to be, and are, of no virtue, force, or effect whatever, and any and all maps, descriptions and surveys thereof made or filed by them in the town clerk's office of the towns of Cortlandt, Yorktown, or Somers, are hereby annulled, and declared to be of no virtue, force or effect whatever.

Saving
clauses.

§ 3. This act shall not impair or affect the right of the said commissioners to recover and receive any fees or compensation for services heretofore rendered by them as such commissioners under and by virtue of the act hereby repealed ; nor shall this act impair or in any way affect, any of the acts and doings of the said commissioners heretofore done and performed by them, under and by virtue of the act hereby repealed, in and about the digging down of hills, on the said post road, but the acts and doings of the said commissioners in digging down said hills, shall be and remain valid and effectual as though this act had not been passed ; nor shall this act subject or render the said commissioners liable to any suit or actions for or by reason of any act or acts done by them, or either of them, under and by virtue of the act hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 134.

AN ACT *for the relief of William Buel.*

Passed May 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal board are hereby authorized and directed to hear and determine the claim of William Buel, according to his contract price, for all work done by him on the five combined locks at Lockport, and materials found for the same, previous to his being directed to suspend said work, in May or June, eighteen hundred and forty-two, and not heretofore paid for, and to pay the said William Buel the amount that he may be justly entitled to according to his contract price, and the estimate of the engineer having in charge the work ; the amount, if any, that may be found due, to be paid out of such fund as shall hereafter be appropriated for the payment of arrearages to canal contractors. But there shall be deducted from the sum awarded, the amount received by him for profits upon work to be paid for under this act.

Claim to be
heard and
determined.

§ 2. This act shall take effect immediately.

CHAP. 135.

AN ACT *to authorize the appointment of a supreme court commissioner, to reside in the village of Le Roy, in the county of Genesee.*

Passed May 7, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. There shall be appointed, in the manner now prescribed by law, a supreme court commissioner, who shall reside in the village of Le Roy, in the county of Genesee, and who shall possess all the powers of a supreme court commissioner, as defined and limited in the second title of the third chapter of the third part of the Revised Statutes ; and he shall be empowered and required to perform all the duties, and execute any act and trust which the first judge of said county, of the degree of counsellor at law in the supreme court, may perform or execute out of court, relating to such court, according to law and the rules and practice thereof.

Commission-
er to reside
at Le Roy.

§ 2. This act shall take effect immediately.

CHAP. 136.

AN ACT to authorize the appointment of a supreme court commissioner, to reside at Ticonderoga, in the county of Essex.

Passed May 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commission-
er to reside
in Ticonde-
roga.

§ 1. There shall be appointed, in the manner now prescribed by law, a supreme court commissioner, who shall reside in the town of Ticonderoga, in the county of Essex, and who shall possess all the powers of a supreme court commissioner as defined and limited in the second title of the third chapter of the third part of the Revised Statutes ; and such commissioner shall also have the same powers possessed by any judge of a court of common pleas, to sign judgment, tax costs, and make orders in any cause in the court of common pleas, in and for the county of Essex.

§ 2. This act shall take effect immediately.

CHAP. 137.

AN ACT to authorize the appointment of a supreme court commissioner, to reside at Albion, in the county of Orleans, and for other purposes.

Passed May 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commission-
er to reside
in Albion.

§ 1. There shall be appointed, in the manner now prescribed by law, a supreme court commissioner, who shall reside in the village of Albion, in the county of Orleans, who, in addition to the powers conferred by law on supreme court commissioners, is hereby authorized and required to perform all the duties and execute every act and trust which the first judge of the county courts of said county, of the degree of counsellor at law in the supreme court, may or can perform and execute out of court, according to law, and the rules and practice thereof.

§ 2. This act shall take effect immediately.

CHAP. 138.

AN ACT *to authorize the appointment of a supreme court commissioner, to reside at Greene, in the county of Chenango.*

Passed May 7, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. There shall be appointed, in the manner now prescribed by law, a supreme court commissioner, who shall reside in Greene, in the county of Chenango; and who shall possess all the powers of a supreme court commissioner; as defined and limited in the second title of the third chapter of the third part of the Revised Statutes.

Commissioner to reside in Greene.

§ 2. This act shall take effect immediately.

CHAP. 139.

AN ACT *in relation to the collection of militia fines.*

Passed May 8, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All laws or parts of laws now in force in this state, by virtue of which any marshal, constable or other officer of the law, is authorized to take and convey to the county jail, the body of any person liable to do military duty in this state, who may be a delinquent for non-payment of militia fines are hereby repealed.

§ 2. This act shall take effect immediately.

CHAP. 140.

AN ACT in relation to the jurisdiction of the justice's court.

Passed May 8, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Restriction.

§ 1. No justice of the peace being an inn-holder or tavern-keeper in fact, shall have any power or jurisdiction under the provisions of title four, of the second chapter of the third part of the Revised Statutes : but if a judgment shall have been actually rendered before a justice before he became so disqualified, he may issue execution thereupon, as in other cases.

§ 2. This act shall take effect immediately.

CHAP. 141.

AN ACT for the relief Nelson Wolcott.

Passed May 8, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Land to be
conveyed to
N. Wolcott.

§ 1. The commissioners of the land office are directed to convey to Nelson Wolcott of the town of Java, in the county of Wyoming, five acres and eighty-eight hundredths of an acre of land described as follows : said land is a part of lot number eighteen, township number eight, in the third range of township, according to the Holland land company's survey, is included in forty-six acres and sixty-two hundredths of an acre off the southwest part of said lot eighteen, deeded by said company or their assigns to Abraham R. Moore, on the sixteenth of June, eighteen hundred and thirty-seven, and now owned by the state ; and is bounded on the east and west by two public roads running southwardly through said land owned by the state, on the south by the south line of said lot eighteen, and on the north by land owned by said Nelson Wolcott : provided, however, that the conveyance ordered by this act shall not be made until the said Wolcott shall convey to the said state a good title free from all incumbrance, to five acres and eighty-eight hundredths of an acre of

Proviso.

land lying east of and adjoining the said land belonging to the state.

§ 2. This act shall take effect immediately.

CHAP. 142.

AN ACT to prevent abuses in the administration of justice and bailing of prisoners in the county of Erie.

Passed May 8, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. No other person than the first judge of the county courts of the county of Erie, being of the degree of counsellor at law in the supreme court, or the circuit judge of the eighth circuit, or the justices of the supreme court, shall have power to allow any writ of certiorari, or make any order for the removal of any criminal cause from the court of general sessions of the peace of said county; and any one of said officers shall have such power. The recorder of the city of Buffalo, the said circuit judge and either of the justices of the supreme court, and no other person shall have the like power as to the recorders' court in said city. Provision as to the removal of causes by certiorari.

§ 2. In case of the death or absence from the county of the said first judge, on proof of the same by affidavit, a supreme court commissioner or any other judge of the said court of common pleas, of the degree of counsellor at law in the supreme court, shall have the like power as is given to the first judge in the last preceding section. And in case of the death or absence of the recorder from said county, a commissioner of the supreme court, on the like proof, shall have the like power as to the recorder's court, Provision in case of death or absence of first judge

§ 3. No such writ of certiorari shall be allowed or order made without an affidavit stating the facts and circumstances on which the application therefor is founded; nor shall any such writ be allowed, or order be made, unless at least four days' notice in writing of the application therefor shall have been served on the district attorney of said county together with a copy of the affidavit on which such application is made. The district attorney shall then be allowed to introduce affidavits and other evidence in opposition to such application. Writ when to be allowed or made.

§ 4. When any court of oyer and terminer, general sessions of the peace or recorders' court shall be sitting in said county, no judge at chambers or supreme court commissioners shall Restriction as to bailing prisoners.

be authorized, without the written consent of the district attorney, to bail any prisoner in jail, or without such consent, to bail any prisoner in jail, if an application in behalf of such prisoner shall have been made to any such court for that purpose, and such application shall have been denied, or if the party shall have had an opportunity to apply to such court and shall have neglected to make such application. And no person committed to jail in said county, after indictment found against him, shall be admitted to bail without the written consent of the district attorney, except by some court having jurisdiction to try the offence charged in the indictment, or by one of the officers authorized by the first section of this act, to allow writs of certiorari and make orders for the removal of causes as therein mentioned.

Repeal.

§ 5. All laws inconsistent with the provisions of this act are hereby repealed, so far as they relate to the said county of Erie.

§ 6. This act shall take effect immediately.

CHAP. 143.

AN ACT to authorize the establishment of a House of Refuge for juvenile delinquents in Western New-York.

Passed May 8, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to select site.

§ 1. The governor of the state of New-York, by and with the consent of the senate, shall, during the present session of the legislature, appoint three commissioners for the purpose of selecting a suitable site on which to be erected "The Western House of Refuge for juvenile delinquents;" and the said commissioners shall, within four weeks from the time of their appointment, proceed to examine and determine upon the site aforesaid, and shall locate the same at some suitable place in the interior or western portion of the state. In determining such location, the said commissioners shall take into consideration any proposition which may be made to them, and of the performance of which they shall have satisfactory assurance, to give to the state the lands necessary for the site of said house of refuge or any materials or money to aid in the erection thereof; and any bond or other obligation executed to the people of this state, and delivered to said commissioners to secure any such site, money or materials, for the purposes aforesaid, shall be valid and binding upon the parties executing the same.

§ 2. If the said commissioners shall procure by purchase (or voluntary cession,) the site for said house of refuge, the deed thereof shall be duly executed to the people of this state and delivered to the comptroller, and thereupon the treasurer is hereby directed to pay, on the warrant of the comptroller, to the grantor or grantors of whom the said site shall be purchased, such sum or sums of money as may be required to pay for the site agreeably to the contract of the said commissioners, not exceeding three thousand dollars.

Deed for site to be executed to the people of the state.

§ 3. At any time, not exceeding two months after the said site shall be obtained by the said commissioners, (who are hereby empowered to contract for the same,) the governor, lieutenant-governor and comptroller, shall appoint three commissioners to contract for the erection and enclosure of the said house of refuge, on such plan and such terms as they may deem just and proper; provided the said plan and the terms of said contract shall be approved by the said governor and lieutenant-governor; and provided also, that said house of refuge shall be built in a plain manner, and that said governor and lieutenant-governor shall approve no plan for the erection of the building of such house of refuge, which shall in their judgment require more than twenty thousand dollars for the completion of such building; and the said commissioners shall select and designate one of their number who shall superintend the building of the said house of refuge, with a view to the due execution of the work on the part of those with whom the said commissioners shall contract for the erection and enclosure thereof.

Commissioners to erect house of refuge.

§ 4. The said commissioners last mentioned, before they enter on the duties of their office, shall each give his bond to the people of this state, in the penal sum of ten thousand dollars, with two or more sufficient sureties, to be approved of by the comptroller, conditioned for the faithful performance of the duties required of them by this act.

To give bond

§ 5. The treasurer is hereby directed to pay to the said commissioners, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, such sum or sums of money as they may from time to time require, for the building of the said house of refuge not exceeding such sum as will, with the sum drawn and paid for the site of said house of refuge, amount to twenty-two thousand dollars, at such times as the same may be wanted by said commissioners, in sums not exceeding five thousand dollars at any one time; and the expenditure of at least four thousand dollars thereof shall be accounted for to the comptroller before any other sum shall be advanced.

Money to be paid to commissioners.

§ 6. It shall be the duty of the said commissioners to make a detailed report of all the money received and expended by

Report of money expended to be made.

them by virtue of this act, and of the progress which shall have been made in the erection and enclosure of the said buildings, to the comptroller of this state, on or before the first day of January next, and as often thereafter as the comptroller shall or may, from time to time, require.

Pay of first mentioned commissioners.

§ 7. Each of the said commissioners, first mentioned in this act, shall be allowed for his service and expenses, while actually employed in the duties of his appointment, the sum of two dollars per day, and at the rate of two dollars for every thirty miles necessary travel in the performance of the duties required by virtue of this act.

Pay of building commissioners.

§ 8. Each of the said commissioners to be appointed by virtue of this act to contract for and superintend the building of the said house of refuge, shall be allowed for his services and expenses, while actually employed in the duties of his office, the sum of two dollars per day.

Notice to be published for six weeks to receive proposals.

§ 9. The said commissioners shall, for six weeks, advertise in a newspaper published in each of the cities of Albany, Rochester and Buffalo, and in the villages of Syracuse and Canandaigua, for sealed proposals for erecting and completing the said buildings and enclosure, and shall make a contract for the same with the lowest bidder or bidders, provided such bidder or bidders shall give satisfactory security for the performance of his or their contract or contracts: provided such contract or contracts and such security, shall be approved by the vice-chancellor of the eighth circuit, or the lieutenant-governor. No such bid shall be received unless the same shall be accompanied by a bond to the people of this state, in the penal sum of ten thousand dollars, executed by the person making such bid and by two sureties, (whose sufficiency shall be certified by the comptroller or the first judge of the county in which such sureties reside,) conditioned that the person making such bid will, within twenty days after such bid shall be accepted, enter into a contract according to such bid, and give such security as is above required for the full and faithful performance thereof. In case the condition of such bond shall be broken, the comptroller shall cause such bond to be prosecuted, whenever, in his opinion, the interest of the state shall require it; and in the suit brought thereon, the people of this state shall be entitled to recover the difference between the bid mentioned in the condition of said bond, and the sum mentioned in the bid upon which a contract shall be finally made, and also any other damages which the state may sustain by the breach of the condition of such bond.

Fifteen managers to be appointed.

§ 10. The governor, lieutenant-governor and comptroller shall appoint, by writing, under their hands and seals, fifteen discreet men, who shall act as managers of the house of re-

fuge, established by virtue of this act, and who shall, on the acceptance of their respective appointment, perform the duties required of them by virtue of this act, without any compensation for their services.

§ 11. The said managers shall be divided by the officers To be divided into three classes. appointing them, into three classes of five each, and the class to which each of such managers shall belong, shall be set forth in the certificate of their appointment. The terms of office of the first class shall expire on the first Tuesday in February, in the year succeeding their appointment; of the second class on the first Tuesday in February in the next year thereafter; and of the third class, on the first Tuesday in February in the succeeding year. Whenever vacancies shall occur in the said board of managers, such vacancies shall be filled by the governor, with the consent of the senate; and the terms of office of such managers shall be such, that they shall hold their office for the term of three years, as near as may be; and that the terms of office of one third thereof, shall expire on the First Tuesday of February in each year. Such managers shall have power to make all such rules, regulations, ordinances and by-laws for the government, discipline and management of said house of refuge, and the inmates and officers thereof, as to them may appear just and proper.

§ 12. The said managers shall appoint a superintendent of Managers to appoint superintendent &c. the said house of refuge, and such other officers as they may deem necessary for the interest of the institution, with a view to the accomplishment of the object of its establishment, and economy of its management; and the said managers shall make a detailed report to the legislature of the performance of their duty, on or before the fifteenth day of January in each year.

§ 13. The said managers and superintendent shall receive Children to be received when legally committed. and take into the said house of refuge, all male children under the age of eighteen years, and all female children under the age of seventeen, who shall be legally committed to the said house of refuge as vagrants, or on a conviction for any criminal offence by any court having authority to make such commitments; the said managers shall have power to place the said children committed to their care, during the minority of such children, at such employments, and cause them to be instructed in such branches of useful knowledge as shall be suitable to their years and capacities; and they shall have power, in their discretion, to bind out the said children, with their consent, as apprentices or servants, during their minority, to such persons and at such places, to learn such proper trades and employments, as in their judgment will be most for the reformation and amendment, and the

future benefit and advantage of such children : provided, that the charge and power of the said managers upon and over the said children, shall not extend, in the case of females, beyond the age of eighteen years, or in the case of males, beyond the age of twenty-one years.

Part of R. S.
to apply.

§ 14. All and singular the clauses and provisions contained in the fourth title of chapter eight of the second part of the Revised Statutes, relating to the covenants to be inserted in the indentures of apprentices and servants, made by the overseers of the poor, shall apply to the apprentices and servants, and the persons to whom they may be bound, under and by virtue of this act.

Duplicate
certificates to
be made
when the
house is
finished.

§ 15. Whenever the said house of refuge shall, in the opinion of the commissioners authorized to be appointed by the third section of this act, be in readiness for the reception of persons committed thereto, the said commissioners shall make, under their hands and seals, duplicate certificates thereof, one of which they shall transmit by mail to the governor of this state, and the other of which they shall cause to be filed in the office of the clerk of the county in which such house of refuge shall be situated. The governor, on receiving such certificate, shall make an order designating the counties which shall thereafter be authorized to send juvenile delinquents to the said house of refuge, and shall file the certificate of such commissioners, and his said order, in the office of the secretary of state. The said secretary of state shall transmit by mail to the first judge and county clerk of each of the counties designated in said order, a certified copy of such certificate and order.

Duty of
Governor.

Of Sec. of
state.

Duty of
courts of
criminal
jurisdiction.

§ 16. From and after the time of making such order, the courts of criminal jurisdiction of the several counties designated in said order, shall sentence to said house of refuge every male under the age of eighteen years, and every female under the age of seventeen years, who shall be convicted before such court of any felony ; the said courts, and the several magistrates of the said counties, may in their discretion sentence to said house of refuge, any such male or female who may be convicted before them of any petit larceny, and the courts and magistrates of the county where such house of refuge may be located, may also, in their discretion, send to said house of refuge, any such male or female who may be convicted before them as a vagrant. The board of supervisors of each of said counties, at their annual meeting, shall raise such a sum as shall in their opinion be sufficient to pay to the treasurer of said house of refuge fifty cents per week, for the support, maintenance and care of every person sentenced in their county to confinement therein ; and the treasurer of the said county shall quarterly pay, on the drafts of the treasurer

of the said house of refuge, the said sum of fifty cents a week for each person supported in said house of refuge, under a conviction had in such county.

§ 17. For the purpose of reimbursing to the general fund the moneys advanced therefrom under the provisions of this act, the comptroller shall, on or before the first day of June next, apportion to and among the several counties in this state, in proportion to the corrected aggregate valuations of the real and personal estate of such counties, in the year one thousand eight hundred and forty-five, the said sum of twenty-two thousand dollars, and the interest thereon, from the time of the advance thereof, on the said first day of June, to the first day of April then next; and the board of supervisors of the several counties in this state shall, at their next annual meeting, cause the sum so apportioned to their counties respectively, to be levied and collected upon the taxable property of their counties, in the manner that other state and county taxes are collected. The said moneys, when collected, shall be paid to the county treasurers of such counties, and such county treasurers shall, immediately on the receipt thereof, pay over the same to the treasurer of this state, and take his receipt therefor, and shall then procure such receipt to be countersigned by the comptroller.

Expense of building house how to be reimbursed.

§ 18. All provisions of existing laws requiring the courts of any of the counties which shall be named in the order to be made by the governor, under the provisions of the fifteenth section of this act, to sentence persons to the house of refuge in the city of New-York, shall be from and after the making of the said order, repealed so far as the same relates to the counties named in the said order, and shall be inconsistent with the provisions of this act.

Repeal as respects certain counties.

§ 19. This act shall take effect immediately.

CHAP. 144.

AN ACT to confirm the official acts of certain Justices of the Peace.

Passed May 8, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The official acts and proceedings of the several persons elected to the office of justice of the peace in the different towns and cities of this state, who have heretofore entered upon the duties of their office without having executed and filed the instrument in writing required by the thirty-fourth

Official acts in certain cases confirmed.

section of the act entitled "An act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts" passed May 10, 1845, are declared to be of the same force, effect and validity as if they had executed and filed the said instrument in writing in pursuance of the provisions of said section.

Liabilities
and forfeitures
remitted.

§ 2. All liabilities and forfeitures incurred by the said several persons so elected to the office of justice of the peace as aforesaid for having executed, any of the duties and functions of the said office of a justice of the peace, without having executed and filed the bond or instrument in writing required by the aforementioned act, are hereby remitted; and all liabilities and forfeitures incurred by any other person or persons and by any other officer or officers, for having done any act founded upon such official act or acts or proceedings are hereby remitted.

Saving
clause.

§ 3. This act shall not affect or impair any suit or legal proceeding that may have been had or commenced by reason of the invalidity of any act or proceeding, by or before the said several persons so elected to the office of justice of the peace as aforesaid.

Repeal of sec
34 of act of
1845.

§ 4. The thirty-fourth section of the act entitled "An act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts" passed May 10, 1845, is hereby repealed.

§ 5. This act shall take effect immediately.

CHAP. 145.

AN ACT to incorporate the Ocean Steam Navigation Company.

Passed May 8, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. John I. Boyd, Jacob Little, Robert H. Morris, Edward Mills, Samuel Sherwood, Robert D. Weeks, Samuel Jaudon, Joseph I. Comstock and Frederick Hewett, and their associates, and all other persons who now are or hereafter may be holders of the stock hereinafter mentioned, are hereby created a body corporate by the name of the Ocean Steam Navigation Company, and so to remain and continue for the period of twenty-five years next ensuing, for the purpose of building, equipping, furnishing, fitting and owning vessels to be propelled solely or partially by the power or aid of steam

or other expansive fluid or motive power ; and to be run and employed in navigation to and from any port or ports of the the United States, but more particularly the port of New-York, and a port or ports of Europe; and for such purpose all the necessary and incidental power is hereby granted to the said corporation, and all contracts may be made either verbal or under the signature of the president and secretary of said company, and with or without the corporate seal.

§ 2. The capital stock of said corporation shall be one Capital stock hundred thousand dollars, and may be increased to one million of dollars, and is to be divided into shares of one hundred dollars each. The corporation may commence operations when one hundred thousand dollars shall have been subscribed.

§ 3. The directors of this corporation, or a majority of Subscriptions to stock them, shall open a subscription book for the said stock on such day and at such place in the city of New-York as they shall appoint, and shall give at least fourteen days' previous notice of such time and place, in at least three of the daily newspapers printed in the said city, and in the state paper ; and on every extension of said stock, a subscription book on such notice as aforesaid, shall be opened under all the regulations and for the time mentioned in relation to the first subscription for said stock.

§ 4. The books for subscription shall be kept open at least Books to be kept open three days. three days, for six hours each day, and a sum of not less than five per cent, on the amount of each share subscribed for, to be fixed by said directors, or a majority of them, and specified in said notice, shall be paid to the said directors at the time of making such subscription ; such payment shall be made in specie or current bank bills, and no check, draft or certificate of deposit shall be received.

§ 5. If the whole capital stock designated for subscription Further subscriptions to stock. from time to time by the directors of said corporation, shall not be taken during the said three days, the said directors or a majority of them may receive further subscriptions on such other day and at such place in the city of New-York as they, or a majority of them, shall from time to time appoint, until the whole amount of said capital stock so designated shall be taken up, giving public notice thereof as directed by the third section of this act.

§ 6. The said directors, or a majority of them, shall proceed, Distribution of stock to be made. within twenty days after the said subscriptions for stock, severally to distribute the amount of the capital stock of said corporation so designated as aforesaid among the subscribers thereto ; and in case there should be subscriptions to more than the amount of such stock, it shall be the duty of the said directors, or a majority of them, to apportion the same

among the subscribers thereto in such manner as a majority of them shall deem most advantageous to the corporation. The said directors before proceeding to the execution of their duties in the taking of said subscriptions and the division of said stock, shall take and subscribe the oath or affirmation prescribed by the constitution of this state, and shall file the same with the clerk of the city and county of New-York.

Names of
subscribers
to be publish-
ed.

§ 7. The said directors shall, within ten days after the distribution of the said amount of stock so designated as aforesaid, publish in one of the newspapers published in the city of New-York, a full and complete statement of all the subscribers for the same, with their places of residence, the number of shares by each subscribed for, and the number of shares allowed to each of them; which statement shall be sworn to by said directors so taking the said subscriptions to the said capital stock.

Expenses to
be paid.

§ 8. The expenses incurred by the said directors in the execution of the duties imposed on them by this act in the taking of the said subscriptions, and making the said distributions of the said capital stock as aforesaid, shall be paid out of the moneys received by them from the subscribers to whom stock shall be distributed.

Affairs how
to be mana-
ged.

§ 9. All the affairs, concerns and business of the corporation shall be managed and conducted by nine directors, being stockholders and citizens of this state, who shall be elected by the stockholders of said corporation; and the first election shall be held on the first Monday in February, in the year one thousand eight hundred and forty-seven, and annually thereafter, between the hours of ten o'clock in the forenoon, and two o'clock in the afternoon, at such place in the city of New-York as the office of the said corporation may be kept; which election shall be by ballot, and each stockholder, at such election shall be entitled to one vote for each share he shall hold at the time of such election; John I. Boyd, Jacob Little, Robert H. Morris, Edward Mills, Samuel Sherwood, Robert D. Weeks, Samuel Jaudon, Joseph I. Comstock and Frederick Hewett, shall be directors until the first Monday of February, in the year one thousand eight hundred and forty-seven, and until others shall be duly elected, and so from time to time. The directors who may be duly elected shall continue in office and hold over until others shall be duly elected in their place and stead.

First direc-
tors.

Quorum.

§ 10. Any five directors of said corporation shall form a quorum for the transaction of all the business of the said corporation.

President.

§ 11. The directors aforesaid, and those who from time to time may be duly elected, shall, as soon as conveniently may be after their election, appoint one of their number to be president, and shall have power to make all such by-laws,

rules and regulations not inconsistent with the laws of this state, or of the United States ; and to appoint all such officers, agents, clerks and servants as may be necessary, and for the better ordering, regulating and conducting the affairs of said corporation, and for the safe keeping of its property and funds.

§ 12. It shall be the duty of the directors in the months Dividend. of January and July of each and every year, to make a dividend of so much of the nett profits of the said corporation as to them or a majority of them shall appear advisable. In case of any loss or losses, whereby the capital stock of said corporation shall be impaired or lessened, no subsequent dividend shall be made among the stockholders until a sum equal to such diminution of capital shall have been added thereto.

§ 13. The said corporation shall possess the general powers and privileges, and be subject to the general General powers. restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes, and by the several acts amendatory thereof.

§ 14. This act shall be held and be construed as repealed and annulled, if the said corporation shall not have equipped and ready for navigation a vessel propelled in whole or in part by steam or other expansive fluid or motive power, to a port or ports in Europe, within two years from the date of the passage of this act. Time limited

§ 15. The steamers built by this company, and used for the transportation of the United States mail, to foreign countries shall be of sufficient size and strength to be converted into war steamers, and the government of the United States may, in case of actual war, whenever authorized by an act of Congress, have the right to purchase and take possession of said steamers at such price and upon such terms as may be agreed upon between the parties by valuation or otherwise. Steamers to be constructed so as to be made war steamers.

§ 16. The stockholders of the said company are hereby declared to be liable in their individual capacity, for the payment of all debts due to the operatives in the employ of said company, and for the payment of the debts of said company, for an equal amount to the stock they severally hold in said company, over and above such stock, to be recovered of the stockholder, who is such when the debt is contracted, or of any subsequent stockholder ; but each subsequent stockholder shall be liable to repay to any previous holder of his stock, any amount which may have been collected of or paid by such previous holder under the provisions of this section; but no suit shall be brought against the stockholders individually, until an execution against the company shall have been returned unsatisfied in whole or in part. Liability of stockholders

Restriction. § 17. The incorporation hereby created shall be prohibited from contracting any debt or debts greater in amount than the capital actually paid in ; and they shall report annually to the Comptroller of this state, the amount paid in and the amount of debts due at the time of making such report, which shall be verified by the oath of the president and secretary of the said company.

Right to repeal. § 18. The legislature may at any time, alter or repeal this act.

§ 19. This act shall take effect immediately.

CHAP. 146.

AN ACT to incorporate the University of Rochester.

Passed May 8, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. Addison Gardiner, Henry Dwight, Leonard E. Lathrop, Albert G. Hall, James Shaw, William M. Oliver, James S. Wadsworth, Nathaniel W. Fisber, Harman Camp, Albert H. Porter, Phineas L. Tracy, John B. Skinner, Asa T. Hopkins, Samuel Luckey, Moses Chapin, Henry E. Rochester, E. Darwin Smith, Charles M. Lee, Enos Pomeroy, and Selah Matthews, are hereby constituted a corporation by the name of "The University of Rochester." By that name the corporation shall have perpetual succession and power, to sue and be sued, complain and defend, contract and be contracted with, and to make and use a common seal, and alter the same at pleasure.

To promote education.

§ 2. The object and purpose of the said corporation are hereby declared to be to promote education, and to cultivate and advance literature, science, and the arts.

Subject to visitation of the regents.

§ 3. This university shall be subject to the visitation of the regents of the university of this state, in the same manner, and to the same extent as the various colleges in this state. It shall be subject to the provisions applicable to colleges, of the fifth article of the first title of the fifteenth chapter of the first part of the Revised Statutes. Its location shall be in the city of Rochester.

Power to grant diplomas.

§ 4. The university may grant to students under its charge, diplomas or honorary testimonials, in such form as it may designate. It may also grant and confer such honors, degrees and diplomas, as are granted by any university, college or seminary of learning, in the United States.

§ 5. Diplomas granted by the university, shall entitle the possessors to the immunities and privileges allowed by usage or statute to the possessors of like diplomas from any other university, college, or seminary of learning, in the state. Effect of diplomas.

§ 6. The persons named in the first section of this act, shall be the first trustees of the said corporation. The trustees may appoint a chancellor, or president of the university, who shall hold his office during good behaviour, and he may be ex-officio a trustee. First trustees.

§ 7. Eight trustees shall be a quorum for the transaction of business, but no real estate shall be purchased or sold, and no chancellor, president, or professor of the university, shall be appointed or removed except by the affirmative vote of a majority of all the trustees. Quorum.

§ 8. The corporation shall have the power, and be subject to the duties and provisions specified or contained in the second article of the first title of the fifteenth chapter of the first part of the Revised Statutes, except so far as the same are modified by a conflict with the provisions of this act. General powers.

§ 9. Unless the said corporation shall organize and commence a school for instruction in literature or science, with at least two professors, besides the chancellor or president, within three years from the date of this act, its corporate powers shall cease. Time limited.

§ 10. The legislature may at any time amend, alter, or repeal this act. Right to repeal.

CHAP. 147.

AN ACT to defray the expenses incurred in the apprehension of certain criminals.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The provisions of section eighteen of the first title of chapter nine part first of the Revised Statutes, in relation to the general fund and the expenditures chargeable thereon, shall be deemed to apply to all cases in which, for offences against the criminal laws of this state, persons charged therewith, have been or shall be apprehended or legally pursued under the provisions of article tenth of the treaty of the United States of America and the Queen of the United Kingdom of Great Britain and Ireland, concluded and signed by their plenipotentiaries at Washington, on the ninth day of

August, one thousand eight hundred and forty-two, entitled a treaty to settle and define the boundaries between the territories of the United States, and the possessions of her Britannic Majesty in North America, for the final suppression of the African slave trade, and for the giving up of criminals fugitive from justice in certain cases.

§ 2. This act shall take effect immediately.

CHAP. 148.

AN ACT for the relief of certain purchasers of lands in the second Oneida purchase of 1829.

Passed May 9, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Certificates of sale issued to certain persons may be delivered up.

§ 1. If in the opinion of the commissioners of the land office it will be for the interest of the State, the comptroller is hereby authorized and directed to receive back the certificates issued to James Stewart and others, purchasers from the state at a sale by the surveyor-general, in the year eighteen hundred and thirty-three, of lands in the second Oneida purchase of eighteen hundred and twenty-nine, or from any persons holding said certificates under said purchasers ; and also from all persons holding parts of lots bought from persons who had purchased of the state at the sale aforesaid, and with whom an account has been opened on the comptroller's books, and to cancel and deliver up the bonds given to the state by said persons on their complying with the provisions of the third section of this act.

Duties of commissioners of the land office.

§ 2. The commissioners of the land office shall cause to be made an inquiry into the pecuniary circumstances and responsibility of each of the original purchasers and present owners of the several lots or parts of lots of land in said purchase respectively; and shall also cause to be made a reappraisal of the said several lots or parts of lots, if the same shall have been divided, in which reappraisal the said lands shall be appraised at the present value of the same, exclusive of the improvements made thereon since said sale.

Lands when to be resold and on what terms.

§ 3. On the surrendering of the certificates as mentioned in the first section of this act, the commissioners of the land office shall in all cases in which it shall appear to them from the inquiry provided for in the preceding section, that the original purchasers of said lands, (being also present owners)

are of doubtful or of no pecuniary responsibility; and in all cases in which both the present owners and original purchasers shall so appear to be of doubtful or of no pecuniary responsibility, sell to the persons interested or to those holding under them, the lands so bought by them at the sale aforesaid, at a price equal to the present value of the same exclusive of the improvements made thereon since said sale, and shall compute the interest on the amount of such re-appraisal from the date of said sale, and from the aggregate amount shall deduct any payments for principal of the purchase money including the interest on the same from the time when paid, and issue new certificates to the holders, and take their bonds in the usual manner, payable at the usual time or times, and with the like condition of bonds in such cases.

§ 4. The provisions of this act are hereby extended to George Stewart, provided the certificate issued to James Stewart and Alexander Stewart, who at the said sale of eighteen hundred and thirty-three became the purchasers of lot number thirteen, in said purchase of eighteen hundred and twenty-nine, shall be surrendered to the comptroller; and provided also, that the commissioners of the land office shall; upon due inquiry, (which they are hereby required to make) ascertain that the said George Stewart was, at the time of the purchase, and now is a poor man, without pecuniary credit or ability to make such purchase without confidential assistance; and that he therefore became the purchaser, though said James Stewart and Alexander Stewart, who lent their names for his benefit, and now stand in form as the real purchasers, while the said George Stewart was the purchaser in fact.

Provisions
extended to
George Stewart.
art.

§ 5 Those wishing to avail themselves of this act, must apply to the comptroller and surveyor general for that purpose, and complete the arrangement within ninety days from the passage of this act, or from the date of said reappraisal.

Time limited

§ 6. The difference between the price agreed to be paid and the sums which shall be realized from said lands under the preceding sections, shall be paid to the common school fund out of any monies in the treasury not otherwise appropriated.

Difference to
be paid to
school fund.

§ 7. This act shall take effect immediately.

CHAP. 149.

AN ACT to authorize the appointment of a Supreme Court Commissioner to reside at Sackets Harbor in the county of Jefferson.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioner to reside at Sackets Harbor.

§ 1. There shall be appointed in manner now prescribed by law a supreme court commissioner who shall reside in the village of Sackets Harbor in the county of Jefferson, and who shall possess all the powers of a supreme court commissioner as defined and limited in the second title of the third chapter of the third part of the Revised Statutes; and he shall be empowered and required to perform all the duties and execute any act and trust which the first judge of said county of the degree of counsellor at law in the supreme court may perform or execute out of court relating to such court according to law and the rules and practice thereof.

§ 2. This act shall take effect immediately.

CHAP. 150.

AN ACT in relation to imprisonment of attorneys and others, upon execution.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Attorneys and others liable to imprisonment.

§ 1. In all actions upon contract for moneys received by any attorney, or by any other male person in a fiduciary capacity, the defendant or defendants shall be liable to imprisonment in the same manner as in actions for wrongs.

CHAP. 151.

AN ACT to authorize the Supervisors of Rockland county to erect a county building for certain purposes.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the board of supervisors of the county of Rockland, and they are hereby required at their next annual meeting to cause to be levied and collected from the taxable inhabitants and property in the said county of Rockland, a sum not exceeding one thousand five hundred dollars, over and above the expenses of collecting the same; which sum aforesaid shall be levied and collected in the same manner as other contingent charges of the said county, for the purpose of building a fire-proof clerk and surrogate's office for the said county, to be located on the public ground near the court house, which was given for the purpose of erecting public buildings thereon for said county, and in which all the public records and papers belonging as well to clerk as the surrogate of the said county, shall be kept after the said building shall have been completed.

Money to be raised by tax to build clerk and surrogate's offices.

§ 2. It shall and may be lawful for the supervisors of said county, or a majority of them, to appoint two commissioners, residents in said county, to superintend, contract for and cause to be erected in said county, near the court house on the public ground aforesaid, a good and sufficient fire-proof building for the safe keeping of the books, records and all other public papers of the said county; and the said commissioners shall keep a true and just account of all expenditures in erecting and completing the said building, and present the same to the board of supervisors of said county, whose duty it shall be to audit and allow the same, and order the treasurer of the said county to pay the said commissioners out of the moneys raised for the purpose aforesaid, the amount or sum so expended in the erection of the aforesaid building. And the said commissioners shall be entitled to receive for each and every day they may be employed in superintending, erecting or completing the said building, such sum or pay per day as the supervisors or a majority of them may consider proper to allow, and to be audited by them in the same manner as other county charges are.

Building commissioners to be appointed.

§ 3. If the supervisors or a majority of them deem it necessary for the safety of the records and papers of said county, to commence the building of said fire-proof house before

Money may be borrowed

the amount of one thousand five hundred dollars can be raised and collected, then the board of supervisors are hereby authorized, and it shall be their duty, upon the application and direction of said commissioners, to borrow the sum aforesaid or any part thereof, to complete said building, and pledge the faith of the county for the re-payment of the same. The money so borrowed by the supervisors to be deposited with the county treasurer; and the treasurer is hereby directed to pay over said amount by order of the supervisors to the commissioners or either of them, in such sum or sums as may become necessary to complete the building aforesaid.

Committee
to give bond.

§ 4. The said building committee, before entering upon their duties, shall take the usual oath of office before the clerk of said county, and shall file in the office of the said clerk a joint and several bond to the treasurer of the said county signed by them and sufficient sureties, to be approved by the said treasurer, conditioned for the faithful performance of their duties as such building committee, and for the faithful application of such moneys as shall come into their hands for the purposes aforesaid.

§ 5. This act shall take effect immediately.

CHAP. 152.

AN ACT for the relief of John Merriam and others.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Allowance to
be made.

§ 1. The canal board are hereby authorized and directed to allow to John Merriam, Benjamin D. Utter and Isaac Wood, survivors of John Carr, such sum as they shall be justly and equitably entitled to, if any beyond the sum estimated and allowed to them by the engineer for dressing over and fitting stone which were allotted to them as the property of the state, which had been procured by former contractor for constructing locks number seventeen and eighteen on the Erie canal enlargement; and also to allow them for such stone, if any, as were so allotted to them and charged to them by the state, but which were found unfit to go into the work; to be paid by the commissioners of the canal fund out of any money appropriated or to be appropriated for the payment of canal damages.

§ 2. This act shall take effect immediately.

CHAP. 153.

AN ACT for the relief of John Sanford and William Eggleston.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal board are hereby authorized and required to grant a re-hearing of the claim of John Sanford and William Eggleston, for extra cement used in the construction of the Auries creek aqueduct, by reason of a change in the proportions of cement and sand which composed the mortar for the same, different from what was contemplated at the time of the execution of the contract for said work; and upon such re-hearing the said board shall decide said claim, and make the same allowance that the said Sanford and Eggleston would have been entitled to, had they presented their petition to said board within the time required by section second, of chapter one hundred and sixty, of the laws of eighteen hundred and forty-one. Rehearing to be granted.

§ 2. The testimony taken by the said board on the former hearing of the claim mentioned in the first section of this act, together with any additional testimony produced by either party may be used and considered on any hearing to be had under this act. Former testimony.

§ 3. The commissioners of the canal fund shall pay to the said Sanford and Eggleston the amount of the award, if any, made under the provisions of this act, out of any moneys belonging to the canal fund, not otherwise appropriated. Payment to be made.

§ 4. This act shall take effect immediately.

CHAP. 154.

AN ACT to prevent the destruction of oysters in the waters of Richmond county.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall not be lawful for any person or persons to take oysters in any of the waters of Richmond county, with a dredge or any other implement attached to any vessel or Restriction.

boat propelled by sails or steam, except where the oysters so taken have been planted on lands, the fee of which is private property, and where the owners thereof assent to such taking.

Penalty. § 2. Every person who shall offend against the provisions of the first section of this act, by taking or aiding or assisting in the taking of oysters in the manner therein prohibited, shall incur a penalty of fifty dollars, which said penalty is hereby declared to be recoverable in an action of debt against the owner, master or other person, having charge of any vessel or boat to which such dredge or other implement may be attached, in any court having cognizance thereof, in the name of any person who will sue for the same; and said penalty when incurred shall be chargeable upon such vessel or boat.

If amount of judgment is not paid the vessel or boat may be sold. § 3. Upon the rendering of any judgment for the penalty prescribed in the preceding section of this act, if the same, together with the costs, shall not be immediately paid, an execution shall be issued, under and by virtue of which, the vessel or boat to which such dredge or other implement shall have been so attached, may be levied upon and sold in the same manner as if the judgment had been obtained against the owner thereof; and this provision shall be deemed and held to be in addition to the usual remedies upon executions issued upon judgments rendered for penalties incurred by violation of Statutes.

Amount to whom paid. § 4. One half of the sum which may be recovered under the provisions of this act shall be paid to the superintendents of the poor of said county for the use of the poor, and the other half shall be for the use of the person who may sue for and recover the same.

Repeal. § 5. Chapter 267 of Session laws of 1840, being an act entitled "An act to prevent the destruction of oysters in the waters of Richmond county," passed May 11th, 1840, is hereby repealed.

§ 6. This act shall take effect immediately.

CHAP. 155.

AN ACT in relation to railroad charters.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Seventh section not to apply in certain cases. § 1. The seventh section of title third, chapter eighteenth, of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad

company, which has or shall have in its own provisions the terms and the time in which it shall be forfeited for non-user.

§ 2. This act shall take effect immediately.

CHAP. 156.

AN ACT *for the relief of Isaac Thompson, William Thompson, Lewis Beebe and James L. Beebe.*

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The Canal Board are hereby authorized and required to hear and examine the claim of Isaac Thompson, William Thompson, Lewis Beebe and James L. Beebe, for labor done and expenses incurred in re-cutting stone furnished by former contractors, for extra bailing of water, and for losses sustained on such stone as were received by the said Isaac Thompson and others, as suitable for face stone, but which by the direction of the State agents were used for backing, under their contract, for constructing the east set of double locks and the middle lock, in the village of Syracuse, on the enlargement of the Erie canal, made the second day of June, eighteen hundred and thirty-eight, and also for the extra expense of the stone masonry, beyond what was contemplated by the commissioners, engineers and contractors, at the time said contract was entered into, in consequence of the more complete and perfect manner in which the said contractors were required to execute the same, and of the change in the manner of its execution from that of former state works of the kind.

Claim to be reheard and examined.

§ 2. The Commissioners of the Canal Fund shall pay, on the warrant of the Comptroller, all such sums of money as shall be allowed by virtue of this act, out of any money in the Canal Fund not otherwise appropriated.

Amount allowed to be paid.

§ 3. This act shall take effect immediately.

LAWS OF NEW-YORK.

CHAPTER 157.

AN ACT to amend the act entitled "*An act incorporating the Susquehannah Bridge Company of the village of Binghamton.*"

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls on
stockholders

§ 1. It shall be lawful for the directors of the said Susquehannah Bridge Company for the time being, to make calls and require payment of the stockholders of the said Bridge Company for such sums and in such instalments, not exceeding the nominal amount of the stock, as may be necessary and required to rebuild or repair the said bridge, at such times and upon such notice as the said directors shall direct, and upon the penalty of forfeiture to the said company of the shares held by any defaulting stockholder who may neglect or refuse to pay such calls or instalments as may be from time to time made by resolution of the said board of directors, for the purpose of rebuilding or repairing the said bridge.

§ 2. This act shall take effect immediately.

CHAP. 158.

AN ACT in relation to the appointment of assignees and trustees of non-resident, absconding, insolvent, or imprisoned debtors.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

In case of
absence of
other assignees
or trustees to
be appointed

§ 1. Whenever any assignee or trustee appointed under any authority conferred by any of the provisions of title one, chapter five and part two of the Revised Statutes, or of any previous statute relating to insolvent or imprisoned debtors, shall have removed from and shall have continued to reside out of this State for one year, or shall hereafter remove from and continue to reside out of this State for one year, it shall be lawful for the officer who originally appointed such assignee or trustee, or in case of his absence, death, or removal, his successor in office, or any other officer residing

in the county where such assignee or trustee was resident, who by law would originally have been authorized and empowered to make an appointment of such assignee or trustee, after giving notice and an opportunity to the creditors to propose proper persons, to appoint another person in the place of such assignee or trustee so removed or to remove as aforesaid.

§ 2. The assignee or trustee appointed in the place of the assignee or trustee so removed, or to remove as aforesaid, shall in all respects have the like powers and authority, and be subject to the same control, obligations and responsibilities as the assignee or trustee originally appointed; and the appointment of an assignee or trustee under the provisions of this act shall be certified and recorded as the original appointment was required to be recorded. Their powers and duties.

CHAP. 159.

AN ACT in relation to the stay of proceedings by bills of exceptions in actions of ejectment.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. No bill of exceptions hereafter to be taken on the part of the defendant, in any action of ejectment shall stay the proceedings therein for more than thirty days after the settlement of such bill, unless the party taking the same shall within that time procure the judge who presided at the trial of the cause, or a justice of the supreme court to certify on such bill that he has read and examined the same, and that there is probable cause for staying the proceedings in the suit in which such bill of exceptions was taken, and serve a copy of such certificate on the attorney of the opposite party. Proceedings how long to be staid.

CHAP. 160.

AN ACT to amend an act entitled "*An act incorporating the village of Sag-Harbor,*" passed March 26, 1846.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Saving
clause.

§ 1. None of the provisions of the act entitled "*An act incorporating the village of Sag-Harbor,*" passed March 26, 1846, shall be so construed as to impair or defeat the raising levying and collecting of such sum or sums of moneys as the freeholders and inhabitants of said village may have directed to be raised, levied and collected by authority of law previous to the passage of said act; but the same may be raised levied, collected and expended by the trustees of said village in the same manner as if said act had not been passed.

Present trustees to enter
on duties.

§ 2. The present trustees of said village of Sag-Harbor, are hereby authorised and required to enter forthwith upon their duties as assessors and ex-officio commissioners of highways under said act.

§ 3. This act shall take effect immediately.

CHAP. 161.

AN ACT to incorporate the *St. David's Benevolent Society* of the cities of *New-York and Brooklyn.*

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. David C. Colden, David Thomas, William Lewis, David Roberts, J. J. Jones, T. J. Evans, Morgan Morgans senior, T. J. Jones, William J. Williams, Daniel L. Jones, John Evans, Evan Lewis, John Phillips, William David, David Morris, Thomas Watkins, J. G. H. Griffith, Hugh R. Hughes, R. E. Davies, Owen Baxter, E. W. Morgan, R. E. Edwards, James Jones, Richard Jones, John Morgan, Robert Evans, Lewis Pughs, Thomas Jones, William Williams, William Roberts, S. J. Jones, Edward Dolsen, Thomas Phillips, Thomas Lloyd, David Morgan, Robert Morris, Taleisen Williams, John Richards, and such other persons as now are associated as the *St. David's Benevolent Society*

of the cities of New-York and Brooklyn, or may hereafter become associated with them, are hereby constituted a body corporate, by the name of "The St. David's Benevolent Society," of the cities of New-York and Brooklyn.

§ 2. The objects of this society are, to afford pecuniary relief to the indigent and reduced members of the society; to all distressed Welshmen and Welshwomen, to those who recently emigrate to this country, as well as to those who have resided here for a longer or shorter period of time; and that in addition to pecuniary relief, the society may offer to the distressed, such other aid and assistance as may be required, and the society may have it in its power to bestow; and also to collect and preserve information respecting Wales and the Welsh people and their descendants in this country; to cultivate a knowledge of the history of Wales and of the Welsh language and literature, and to promote social intercourse among the members of the society, and those connected with them by the ties of kindred and country. Objects of the society.

§ 3. The said corporation shall have power to make and adopt a constitution and by-laws, rules and regulations, for the admission of members and their government, the election of its officers and their duties, the suspending or expelling any of its members, and for the safe keeping and protection of its funds, and from time to time, to alter or repeal such constitution, by-laws, rules and regulations. The present officers shall hold their respective offices until others shall be chosen in their places. By-laws.

§ 4. The said corporation may purchase and hold any real or personal estate; but the annual income thereof shall not exceed five thousand dollars, provided the said corporation shall not take or hold any real estate excepting sufficient for a place to transact their business. Estate.

§ 5. The said corporation shall possess the general powers, and be subject to the general restrictions and liabilities, prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes. Right to repeal.

§ 6. The legislature may at any time, alter or repeal this act.

§ 7. This act shall take effect immediately.

CHAP. 162.

AN ACT to incorporate the Hebrew Mutual Benefit Society of the city of New-York.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. David Sanison, Julius Jacobus and Lemuel Cohen, and such other persons as are now associated or may hereafter associate with them for that purpose, are hereby constituted a body corporate, by the name, style or title of the "Hebrew Mutual Benefit Society," in the city of New-York.

Objects of
the society.

§ 2. The objects of the said society are the mutual relief of the members thereof and their families when in sickness, want and destitution or distress, to attend the dying and deceased members of the house of Israel, and render such services and administer such comforts as dying persons and the afflicted survivors of the house of Israel require, and to do such other and further acts of charity and benevolence to persons as cometh within the aforesaid objects of their institution.

By-laws.

§ 3. The said corporation shall have power to pass by-laws and prescribe rules and regulations not inconsistent with the laws of this state, for the admission of its members and their government, the election of its officers and their duties, the safe keeping of its property and funds, the transaction of its business, &c. ; and also to determine the fit and proper objects of their charity. The said society shall be under the control of a president, and so many trustees and other officers as shall be designated and fixed upon by the by-laws and regulations of said corporation, who shall be elected annually or oftener, at such times, by such persons, and in such manner as the said corporation, in and by its by-laws shall appoint and direct.

Estate.

§ 4. The said corporation may purchase, hold and convey real and personal estate for its use and benefit, to an amount not exceeding ten thousand dollars.

General
powers.

§ 5. The said corporation shall possess the general powers, and be subject to the general restrictions and liabilities contained and prescribed in title three of the eighteenth chapter of the first part of the Revised Statutes.

Right to
repeal.

§ 6. The legislature may at any time, alter or repeal this act.

§ 7. This act shall take effect immediately.

CHAP. 163.

AN ACT to incorporate the Prison Association of New-York.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All such persons as now are and hereafter shall be-
 come members to the said association pursuant to the con-
 stitution thereof, shall and are hereby constituted a body
 corporate by the name of the Prison Association of New-
 York, and by that name have the powers that by the third
 title, of the eighteenth chapter, of the first part of the Re-
 vised Statutes, are declared to belong to every corporation,
 and shall be capable of purchasing, holding and conveying,
 any estate real or personal, for the use of said corporation,
 provided that such real estate shall never exceed the yearly
 value of ten thousand dollars, nor be applied to any other
 purpose than those for which this corporation is formed.

Corporation
created.

§ 2. The estate and concerns of said corporation shall be
 managed and conducted by its executive committee, in con-
 formity to the constitution of the said corporation; and the
 following articles that now form the constitution of the as-
 sociation shall continue to be the fundamental laws and con-
 stitution thereof, subject to alteration in the mode therein
 prescribed :

Estate and
concerns
how man-
aged.

- Article First.

The objects of the association shall be

1. The amelioration of the condition of prisoners, whether
 detained for trial or finally convicted, or as witnesses.

2. The improvement of prison discipline and the govern-
 ment of prisons, whether for cities, counties or states.

3. The support and encouragement of reformed convicts
 after their discharge, by affording them the means of obtain-
 ing an honest livelihood, and sustaining them in their efforts
 at reform.

Objects of
the associa-
tion.

Article Second.

The officers of the society shall be a president, four vice
 presidents, a recording secretary, a corresponding secretary,
 and a treasurer; and there shall be the following commit-
 tees, viz : A finance committee, a committee on detentions,
 a committee on discipline, a committee on discharged con-
 victs, and an executive committee.

Officers.

*Article Third.***Executive committee.**

The officers named in the preceding article shall be ex-officio members of the executive committee, who shall choose one of their number to be chairman thereof.

*Article Fourth.***Their duties.**

The executive committee shall meet once in each month, and keep regular minutes of their proceedings. They shall have a general superintendence and direction of the affairs of the society, and shall annually report to the society all their proceedings, and such other matters as shall be likely to advance the ends of the association.

*Article Fifth.***Society to meet annually.**

The society shall meet annually in the city of New-York, at such time and place as the executive committee shall appoint, and at such other times as the president, or in his absence one of the vice-presidents shall designate.

*Article Sixth.***Membership.**

Any person contributing annually to the funds of the association, shall, during such contribution be a member thereof. A contribution of five hundred dollars shall constitute a life patron; a contribution of one hundred dollars, an honorary member of the executive committee for life; and a contribution of twenty-five dollars shall constitute a member of the association for life. Honorary and corresponding members may from time to time be appointed by the executive committee.

*Article Seventh.***Female department.**

A female department shall be formed, consisting of such females as shall be selected by the executive committee, who shall have charge of the interest and welfare of prisoners of their sex, under such regulations as the executive shall adopt.

*Article Eighth.***Officers chosen annually.**

The officers of the association shall be chosen annually at the annual meeting, at which time such persons may be elected honorary members as shall have rendered essential service to the cause of prison discipline.

*Article Ninth.***Auxiliaries.**

Any society having the same objects in view may become auxiliary to this association by contributing to its funds, and co-operating with it.

Article Tenth.

The executive committee shall have power to add to any of the standing committees, such persons as in their opinion may be likely to promote the objects of the society, and shall have power to fill any vacancy which may occur in any of the officers of the association, intermediate the annual meetings.

Article Eleventh.

This constitution may be amended by a vote of the majority of the society at any meeting thereof, provided notice of the amendment has been given at the next preceding meeting. The officers elected for the current year under the constitution shall continue to be the officers thereof, until others shall be duly chosen in their places. And it is hereby further enacted, that no manager of said society shall receive any compensation for his services.

§ 3. The said executive committee shall have power to establish a work-house in the county of New-York, and in their discretion to receive and take into the said work-house all such persons as shall be taken up and committed as vagrants or disorderly persons in said city, as the court of general sessions of the peace, or the court of special sessions, or the court of oyer and terminer in said county, or any police magistrate, or the commissioner of the alms house may deem proper objects, and the said executive committee shall have the same powers to keep, detain, employ and govern the said persons as are now by law conferred on the keepers of the Bridewell or Penitentiary in said city.

§ 4. The said executive committee may from time to time make by-laws, ordinances and regulations, relative to the management and disposition of the estate and concerns of said association, and the management, government, instruction, discipline and employment, of the persons so as aforesaid committed to the said work-house, not contrary to law, as they may deem proper, and may appoint such officers, agents and servants, as they may deem necessary to transact the business of the said association, and may designate their duties, and the said executive committee shall make an annual report to the legislature and to the corporation of the city of New-York, of the number of persons received by them into the said work-house, the disposition which shall be made of them by instructing or employing them therein, the receipts and expenditures of said executive committee, and generally all such facts and particulars as may exhibit the operations of the said association.

§ 5. The said executive committee shall have power during the minority of any of the persons so committed to the said work-house, to bind out the said persons so being minors as aforesaid, as apprentices or servants, with their consent during their minority, to such persons and at such places, to learn such proper trades and employments as in their judgment will be most conducive to their reformation and amendment and future benefit and advantage of such persons.

Prisons may
be visited
and exam-
ined.

§ 6. The said executive committee by such committees as they shall from time to time appoint, shall have power, and it shall be their duty to visit, inspect and examine, all the prisons in the state, and annually report to the legislature their state and condition, and all such other things in regard to them as may enable the legislature to perfect their government and discipline. And to enable them to execute the powers and perform the duties hereby granted and imposed, they shall possess all the powers and authority that by the twenty-fourth section, of title first, chapter third, part fourth of the Revised Statutes are vested in the inspectors of county prisons, and the duties of the keepers of each prison that they may examine shall be the same in relation to them, as in the section aforesaid, are imposed on the keepers of such prisons in relation to the inspectors thereof; provided that no such examination or inspection of any prison shall be made until an order for that purpose to be granted by the chancellor of this state, or one of the judges of the supreme court or by a vice chancellor or circuit judge, or by the first judge of the county in which the prison to be examined shall be situate shall first have been had and obtained, which order shall specify the name of the prison to be examined, the names of the persons members of the said association by whom the examination is to be made, and the time within which the same must be concluded.

CHAP. 164.

AN ACT to amend an act entitled "*An act to authorize the construction of a timber, plank or hard road, from Salina, in the county of Onondaga, to Central square, in the county of Oswego,*" passed April 12, 1844.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Toll gates
may be
erected and
tolls collected

§ 1. The Salina and Central Square Plank Road Company, are hereby authorized and empowered to build so many

toll-gates on the line of their road as they may deem proper, and collect toll at each of said gates, provided they receive no more toll per mile than they are now allowed by law, to be regulated by the number of miles each person with his team, paying toll, shall have actually travelled on said road, and also provided that the said company shall furnish to the traveller offering and paying at any one of the said gates, the whole toll for the distance that he proposes to travel on said road, tickets or such other convenient evidence as will enable him or her to proceed such distance without delay or hinderance at intervening gates, other than to show or deliver such ticket or other evidence of payment.

§ 2. So much of section ten of the act hereby amended as is inconsistent with this act is hereby repealed.

§ 3. This act shall take effect immediately.

CHAP. 165.

AN ACT to amend an act entitled "*An act to incorporate the Albany Hydrant Company in the city Albany,*" passed April 12, 1844.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The trustees of the Albany Hydrant Company are hereby authorized to increase their capital stock, by an additional amount of one hundred and fifty thousand dollars. stock may be increased.

§ 2. Such additional stock shall be divided into shares of twenty dollars each, and may be issued from time to time in such portions as the trustees of said company shall see fit. And divided

§ 3. The time in which said trustees shall organize and commence the transaction of their business, is hereby extended two years from the termination of the time mentioned in section ten of said act. Time extended.

CHAP. 166.

AN ACT authorizing the mayor and common council of the city of Brooklyn, to create a loan for the purpose of building a city hall in said city,

Passed May 9, 1846 by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly do enact as follows :

Temporary
loan may be
created.

§ 1. The mayor and common council of the city of Brooklyn are hereby authorized to create a temporary loan in addition to the loans already authorized by law, not exceeding the sum of one hundred thousand dollars, for the purpose of erecting and furnishing a city hall in said city, which has already been commenced, and for that purpose the said mayor and common council are hereby authorized to issue bonds in the name of the said corporation in such amounts as they may deem proper ; none of such bonds to be in a less sum than five hundred dollars, such bonds to bear an interest not exceeding six per cent per annum ; the interest on said bonds to be payable half yearly from the date of said bonds ; the principal mentioned in said bonds shall be made payable in fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four years from the date thereof. The faith, property and effects of the said corporation are hereby pledged for the faithful payment of said bonds and the redemption of said loan. The proceeds of the bonds issued in pursuance of this section shall be solely applied to the erection of a city hall in said city ; and no portion of the said bonds shall be issued unless a majority of all the aldermen elected to the common council shall be present at the meeting at which such bonds are authorized to be issued, and such majority shall be necessary to constitute a quorum for the transaction of any business of said board.

Money to be
raised by
tax.

§ 2. It shall be the duty of said board of supervisors of the county of Kings, when required so to do by the joint board of the common council and supervisors elected for the said city of Brooklyn, to raise annually such sum or sums of money, as shall be necessary to pay the interest on the loan hereby authorized and all loans previously made by said city, which shall be levied and collected in the same manner as other city taxes are levied, assessed and collected.

§ 3. This act shall take effect immediately.

CHAP. 167.

AN ACT to authorize the commissioners of the land office to sell lands to Martin Pope.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of the land office are hereby authorized to sell to Martin Pope, lots number one hundred and eighty-one, two hundred and eighteen, two hundred and nineteen, two hundred and twenty-one, two hundred and twenty-two, in township number ten, old military tract in the county of Franklin, on condition that Martin Pope shall exhibit to the commissioners of the land office evidence to show that he is the owner in his own right of all the interest of the original purchaser or purchasers, to whom the certificate or certificates of the sale of such lots were given, and shall pay into the treasury of this state within ninety days, the amount that is or may be found due the state on account of the purchase of the above mentioned lots, together with the costs of the late sale thereof, on default of payment of the purchase money.

Lands to be sold to Martin Pope.

§ 2. So much of the law in relation to state prisons passed May 1, 1844, and April 16, 1845, as is inconsistent with the provisions of this act is hereby repealed.

Repeal

CHAP. 168.

AN ACT for the benefit and relief of Francis Englishbee.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. All the right, title and interest of the people of this state in the real estate situated in the city of New-York, whereof James Englishbee, late of said city, died seized or possessed, are hereby released to Francis Englishbee, brother of said deceased, who is hereby authorized to take, hold and dispose of the same in the same manner and with the like effect as if he was a citizen of the United States, and the said James Englishbee had, at the time of his death, been a natural born citizen of this state: provided, always, that nothing herein contained shall be construed to impair or affect the claims of any creditor or any other heir at law of the said James Englishbee upon said real estate; and pro-

Right of the state released to F. Englishbee.

Proviso.

Proviso.

vided, also, that the said Francis Englishbee shall take and hold such real estate, subject to any mortgage thereon made by the said James Englishbee deceased, or by Mary Englishbee his widow, and also to a lien in favor of any purchaser thereof from the said Mary, where such purchase shall have been made in good faith without notice, and for a valuable consideration, previous to the second day of April, 1836, to the extent of sum paid or advanced by him, together with the present value of any improvements he may have made thereon.

§ 2. This act shall take effect immediately.

CHAP. 169.

AN ACT to alter the terms of the county courts of the county of Chemung.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Terms altered.

§ 1. There shall, after the next term of the court of common pleas and general sessions of the peace, held in and for the county of Chemung, be three terms instead of four terms of said courts in each year, as now provided by law. The said terms of the said courts shall commence and be known and denominated as follows, to wit : One term thereof to be denominated the June term, shall commence on the first Monday of June, in each year ; one term thereof to be denominated the October term, shall commence on the first Monday of October in each year ; and one term thereof to be denominated the February term, shall commence on the first Monday of February in each year ; and each term may be held and continued until and including the second Saturday after the commencement thereof.

Order by court of common pleas and general sessions.

§ 2. The court of common pleas and general sessions of the peace of the county of Chemung, may at any term thereof, hereafter to be held, make and enter an order, in the minutes thereof kept by the clerk thereof, to dispense with the grand jury, at one of the terms of such courts in each year ; which order shall designate the term of said court at which the grand jury shall be so dispensed with.

Provision as to juries.

§ 3. After such order shall have been duly made and entered, the clerk of said court shall not give notice of the drawing of any grand jury, for the term so designated, nor shall any grand jury be drawn therefor.

Order may be revoked.

§ 4. In case the said court shall at any time subsequent to the making and entry of such order, deem it necessary or proper to revoke the same, the said court is hereby autho-

rised and empowered so to do, and said court is also authorised and empowered at any time to change or modify such order, so as to change the designation of the term of said court, at which the grand jury shall be dispensed with.

§ 5. After such order shall have been duly made and entered, the clerk of the said court shall cause a copy thereof to be published in two newspapers published in said county, for three successive weeks. And the like publication shall be made of every order altering or revoking the order which shall be first made in pursuance of this act, or altering or revoking any subsequent order made in pursuance of this act : And all recognisances and sureties taken by or before any judge, supreme court commissioner, justice of the peace or other magistrate of said county, after the first publication of such order, shall require the persons for whose appearance such recognisances or sureties shall be taken, to appear at the next court having cognisance of the offence mentioned in such recognisances or sureties, to be held in said county for which a grand jury shall be drawn and summoned; and such recognisances and sureties, together with all examinations taken by and before such officers, shall be certified by such officers to the said court on the first day of the sitting thereof.

Duty of
county clerk.

§ 6. This act shall take effect immediately.

CHAP. 170.

AN ACT for the relief of *Asenath Mougins*.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the estate, right, title and interest, of the people of this state, to the real estate of which John Fromholt, late of the town of New-Haven, in the county of Oswego, in the state of New-York, died seized, are hereby released to Asenath Mougins, now the wife of Ferdinand Mougins, and formerly the wife of said John Fromholt, to have and to hold the same to her during her natural life, and after her death, to the children of the said Asenath Mougins, her surviving, their heirs or assigns forever, subject to the conditions mentioned in the next section of this act.

Right of the
state re-
leased to A.
Mougins.

§ 2. This act shall not in any manner affect the rights and interests of any devisee or devisees, legatee or legatees named in the will of the said John Fromholt deceased, and the property hereby released, together with all the rest of the real and personal estate of the said John Fromholt de-

Saving
clause.

ceased, is subject to all contracts relating thereto, made by, and to the payment of the debts of the said John Fromholt deceased, and all liens existing thereon, at the time of his death, in the same manner and to the same extent as it would have been, had the said John Fromholt been a natural born citizen of the United States, and had left heirs capable of inheriting said property.

CHAP. 171.

AN ACT for the relief of Henry Heath.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages to
be appraised.

§ 1. The canal appraisers, subject to an appeal to the canal board as in other cases provided, are authorized and required to appraise the damages occasioned to the machine shop, machinery and furnace, of Henry Heath, in consequence of stopping up or damming the south branch of the Mohawk river below the aqueduct at the village of Little-Falls, in the county of Herkimer, by the state.

Amount to
be paid.

§ 2. Such damages as shall be awarded pursuant to the first section of this act, shall be paid to the said Henry Heath, or his legal representatives, by the commissioners of the canal fund, out of any moneys in their hands not otherwise appropriated.

CHAP. 172.

AN ACT to provide for the calling of a convention in relation to the charter of the city of New-York.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Election
when to be
held.

§ 1. An election shall be held in the city of New-York on the first Monday of June ensuing the passage of this act, for the selection of delegates to a county convention for forming a new, or revising and amending the present charter of the said city of New-York.

Representa-
tion from
each ward.

§ 2. Each of the wards of the said city of New-York shall be entitled to the following representation in said convention, viz : First ward, one delegate ; second ward, one delegate ; third ward, one delegate ; fourth ward, two delegates ; fifth ward, two delegates ; sixth ward, two delegates ; seventh

ward, two delegates; eighth ward, three delegates; ninth ward, three delegates; tenth ward, two delegates; eleventh ward, three delegates; twelfth ward, one delegate; thirteenth ward, two delegates; fourteenth ward, two delegates; fifteenth ward, two delegates; sixteenth ward, two delegates; seventeenth ward, three delegates; eighteenth ward, two delegates.

§ 3. Notice of such election shall be given, and the same shall be conducted in the manner now provided by law in regard to charter elections in the city of New-York, and the name of each delegate voted for shall be written or printed, or partly written and partly printed upon each ballot, and the ballot shall be endorsed "Delegates to the Convention," and a separate box for the deposit of such ballots shall be kept by the inspectors of each election district in the several wards of the said city. The result of such election shall be ascertained and certified in the manner now provided in the act regulating charter elections in said city. Notice to be given.

§ 4. All the provisions of law for the purity of elections in the city of New-York shall apply to the election held under this act; and all false swearing at said election shall be deemed and punished as perjury. Provisions of law and purity of election to apply.

§ 5. The delegates to be chosen under this act, shall meet in the city of New-York on the first Monday of July next, at the chamber of the board of aldermen, and shall then, or as soon after as may be practicable, organize and adopt rules for their government. They shall complete their business so that any charter or amendments adopted by them, may be submitted to the electors of the city and county of New-York, as in the next section provided. Delegates when to meet.

§ 6. The charter or amendments proposed by the convention organized under this act, shall be submitted to the electors of the city and county of New-York, at the election to be held in the said city on the first Tuesday after the first Monday of November, in the year 1846, and if adopted by a majority of the votes cast on the question shall be submitted to the legislature at the next session thereof for approval, and if so approved, shall become the charter or a part of the charter of the said city of New-York, and in case the said convention shall prefer amendments and not a new charter, the said amendments shall be submitted to the electors of the city and county of New-York, separate or in clauses, relating to the same subject. The ballots to be used at the election to be held under this section, shall be prepared in such form as said convention may direct, and a separate box for the deposit of such ballots shall be kept by the inspectors of each election district in the several wards of the said city, and the result of such election shall be ascertained and Charter to be submitted to electors.

certified to in the same manner now provided in the act regulating elections for members of Assembly.

Expenses
how paid.

§ 7. The expenses of the election for delegates to be held under this act, and all expenses attending the convention, shall be paid out of the treasury of the city of New-York. The proceedings of the convention shall be filed in the office of the clerk of the county, when duly certified to by the presiding officer and secretary or secretaries of said convention.

Pay of mem-
bers.

§ 8. The members of the convention shall have power to provide for their own pay, which shall not exceed one dollar and fifty-cents per day for every day actually in session.

§ 9. This act shall take effect immediately.

CHAP. 173.

AN ACT to provide for the election of Superintendents of the Poor and other officers, by the people in the county of Onondaga.

Passed May 9, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Officers to be
elected.

§ 1. Three superintendents of the poor, two commissioners for loaning moneys under the act entitled "An act authorizing a loan of moneys to the citizens of this state," passed April 11, 1808, and also "for loaning certain moneys of the United States for the county," pursuant to the act passed April 4, 1837, and a county treasurer for the county of Onondaga, shall be elected by the voters of said county at the next annual election, in the manner now provided by law for the election of members of the Assembly; the votes for whom shall be canvassed and certified in all respects as the votes for members of Assembly are canvassed and certified.

Superintend-
ents of the
poor to be
divided into
3 classes.

§ 2. The term of office of the said superintendents of the poor shall commence on the first day of January next, after their election, and they shall on that day in the presence of the county clerk of the said county, divide themselves by lot, into three classes of one each; the office of the first class shall expire in one year, and the office of the second class shall expire in two years, and the office of the third class shall expire in three years from the commencement of their said term of office.

One to be
elected each
year.

§ 3. At every subsequent election for county officers, one superintendent of the poor for said county shall be chosen in manner aforesaid, whose term of office shall commence on the first day of January next succeeding his election, and shall continue three years.

§ 4. The term of office of each county treasurer shall commence on the first day of January next after his election, and shall continue for two years; and at each alternate annual election after the annual election of this year, there shall be chosen in the manner aforesaid, a county treasurer for the said county whose term of office shall commence and expire as first in this section is provided.

Tenure of office of county treasurer.

§ 5. The commissioners for loaning moneys under the act entitled "An act authorizing a loan of moneys to the citizens of this state," passed April 11, 1808, shall also be "the commissioners for loaning certain moneys of the United States of the county," pursuant to the act passed April 4, 1837, and their term, duration of office, and election, shall in all respects conform with the provisions of the fourth section of this act, for regulating the term and duration of office and election of county treasurer.

Commissioners of loans to be also comm'rs for loaning moneys of the U. S.

§ 6. The term of office of the present superintendent of the poor, county treasurers and commissioners for loaning moneys under the act entitled "An act authorizing a loan of moneys to the citizens of this state," passed April 11, 1808, and "the commissioners for loaning certain moneys of the United States" in said county, shall expire on the first day of January next.

Term of office of present officers

§ 7. Any vacancy which may happen in any of the offices herein made elective, whether by death, removal, or otherwise, shall be supplied for the residue of term of such offices by the board of supervisors of said county.

Vacancies how supplied.

§ 8. All laws or parts of laws inconsistent with this act, are hereby repealed; but all laws or parts of laws regulating, fixing, or determining the powers, duties or liabilities of any or either of the officers named in this act, are hereby continued in full force and effect.

Repeal and saving clause.

CHAP. 174.

AN ACT to provide for the compensation of town officers in the county of Kings.

Passed May 9, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Clerks of general and special elections in the county of Kings, shall be allowed three dollars each for their services at said elections, instead of one dollar and twenty-five cents per day, as now allowed by law.

Pay of clerks of election.

§ 2. This act shall take effect immediately.

CHAP. 175.

AN ACT to incorporate the Ogdensburgh and Heuvelton Plank Road Company.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. All persons who shall become stockholders, pursuant to this act, of the corporation hereby created, shall be and they are hereby constituted a body politic and corporate by the name of "Ogdensburgh and Heuvelton Plank Road Company," for the term of twenty-one years after the passage of this act.

Capital
stock.

§ 2. The capital stock of such corporation shall be fifteen thousand dollars, with the privilege of increasing the same to twenty thousand dollars. It shall be divided into shares of twenty-five dollars each, shall be deemed personal property, and be assignable as the by-laws of said corporation shall direct.

Subscrip-
tions to stock

§ 3. Henry Van Rensselaer, Royal Vilas, James G. Hopkins, George N. Seymour, and Thomas Bacon, or a majority of them, shall be commissioners to open books and receive subscriptions to said capital stock, and to receive donations in the name of and for the benefit of such corporation ; one dollar shall be paid on each share of stock at the time of the subscription thereof.

Concerns
how manag-
ed.

§ 4. The concerns and business of the said corporation shall be managed by seven directors, to be chosen from among the stockholders thereof. Each stockholder shall be entitled to one vote for every share of stock owned by such stockholder, which vote may be given in person or by proxy duly appointed in writing.

Election of
directors.

§ 5. Whenever ten thousand dollars shall have been subscribed to such capital stock, it shall be the duty of the commissioners named in the third section of this act, by notice of at least six days, posted in the town through which the said road hereby authorized to be constructed shall pass, to call a meeting of the stockholders at some convenient place near the line of said road ; for the purpose of choosing directors of said corporation ; and the persons chosen at such meeting shall hold their offices until others are elected in their stead. In every succeeding year, the directors shall be elected by the stockholders on the first Tuesday in February.

Route of
road.

§ 6. The corporation hereby created, is hereby authorized to construct a plank road, to commence at a point where

Knox-street crosses State-street in the village of Ogdensburgh, thence southerly on the stage road leading to Heuvelton village, in the county of St. Lawrence; which will make the length of the road created by this act about seven miles. The track of said road shall be constructed of timber and plank, and the surface thereof shall be formed smooth and even. The carriage way of said road shall be at least twelve feet wide, but the particular manner of building such road in all other respects shall be determined by the directors of such corporation.

§ 7. David C. Judson, Egbert N. Fairchild, John W. Tate, of the town of Oswegatchie, are hereby appointed ^{Commissioners to locate road.} commissioners to locate said road on the route mentioned in the last section. In case either of them shall neglect or refuse to act, the first judge of the county of St. Lawrence shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation such sum as its directors may deem just.

§ 8. Said corporation shall, within three years from the ^{Time limited} passage of this act, construct the whole of road so to be located, and shall afterwards, during its existence as a corporation, keep and maintain said road in good condition and repair. If said seven mile or thereabouts of said road shall not be constructed in said three years, said corporation shall be deemed to be dissolved, and its corporate rights shall wholly cease.

§ 9. The said corporation may use for the constructing of ^{Highways when to be used.} said road, the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of a majority of the highways commissioners of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highway thereof. Such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town. If such consent shall be refused, the said corporation may use any such road on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders, to be appointed by one of the judges of the county of St. Lawrence, in manner prescribed in article second, of the first title, of chapter eighteen, of the first part of the Revised Statutes, and to proceed as directed in said article.

§ 10. Whenever said road shall be completed, it shall be ^{Rates of toll.} lawful for said corporation to erect a toll gate thereon, and appoint a toll collector for the same. At such gate, when erected in pursuance of this act, the said corporation and the

toll collectors thereof may demand and receive the following tolls, viz : For every carriage, sled, sleigh or other vehicle of any description, drawn by one horse or other animal, ten cents ; if drawn by two, fifteen cents ; if drawn by more than two, five cents in addition for every such additional animal ; for every horse and rider, six and a fourth cents ; for every horse without a rider, every mule, or head of neat cattle, not attached to a vehicle, and half score of sheep or swine, one cent. The collector of tolls at said gate may detain and prevent from passing such gate, any animal, team, carriage or other vehicle subject to toll, until the toll thereon shall be paid. Vehicles and animals coming on to and travelling on said road less than four miles, shall be subject only to half the above rates of toll.

Penalty for
injuring road

§ 11. Any person who shall wilfully injure, break or throw down any gate which shall have been erected on said road pursuant to the provisions of this act, or dig up, or wilfully injure or spoil any part of such road, or any thing thereunto belonging, or shall drag along or across said road, any log, timber, wood or stone, so that the same shall come in contact with the even surface of said road, or forcibly or fraudulently pass any such gate without the payment of the legal toll, or shall, with his team, carriage, sleigh, sled or other vehicle or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for every such offence, forfeit to such corporation the sum of ten dollars in addition to the damages resulting from his wrongful act ; which penalties may be recovered by said corporation in an action of debt in any court having cognizance thereof, and a separate suit for such damages may in like manner be prosecuted and maintained by such corporation.

Lands how
to be pur-
chased.

§ 12. The provisions of article second, title first, of the eighteenth chapter, of the first part of the Revised Statutes, respecting the purchase of lands necessary for the purpose of said road, its value, and appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act.

Survey to be
made and
filed.

§ 13. The commissioners who shall locate the said road shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the county of St. Lawrence, and of the clerk of town in which said road shall be situated.

General
powers.

§ 14. The corporation hereby created shall possess the general powers and be subject to the general restrictions and provisions and liabilities prescribed in the third title, of the eighteenth chapter, of the first part of the Revised Statutes,

as far as the same may be applicable, except as the same may be modified by this act.

§ 15. The legislature may at any time modify, alter or repeal this act. Right to repeal.

§ 16. This act shall take effect immediately.

CHAP. 176.

AN ACT to incorporate the "*Buffalo Savings Bank*."

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Albert H. Tracy, Millard Fillmore, John L. Kimberly, Noah H. Gardner, Francis J. Handel, Frederick Delenbaugh, Jacob Seibold, Elijah D. Efnor, Russell H. Heywood, Warren Bryant, Daniel Bowen, Isaac Sherman, William Tweedy, Hiram P. Thayer, Benjamin Caryl, Charles Townsend, Francis C. Brunck and Ernst G. Grey and their successors, shall be and they are hereby constituted a body corporate and politic, by the name of "*The Buffalo Savings Bank*." Corporation created.

§ 2. The real estate which it shall be lawful for the said corporation to purchase, hold and convey, shall be : Real estate.

1. Such as may be requisite for its immediate accommodation for the convenient transaction of its business;

2. Such as shall have been mortgaged to it in good faith for money loaned in pursuance of the provisions of this act;

3. Such as shall have been purchased at sales upon judgments or decrees obtained or rendered for monies so loaned;

And the said corporation shall not purchase, hold, or convey real estate in any other case, or for any other purpose ; and all such real estate as is described in the second and third subdivisions of this section, shall be sold by the said corporation within five years after the same shall be vested in it by purchase or otherwise, and the said corporation shall not directly or indirectly deal or trade in buying or selling any goods, wares, or commodities whatever, except in the cases where it is authorized to do so by the terms of this act, and except such personal property as may be requisite for its immediate accommodation for the convenient transaction of its business.

§ 3. The trustees of said corporation shall not directly or indirectly receive any pay or emolument for their services. Trustees not to be paid.

§ 4. The business and affairs of the said corporation shall be managed by the trustees thereof, who shall elect from their number a president and vice president, by a majority Business how to be managed.

of the votes of a quorum of the said trustees, ten of whom shall be a quorum for doing business, but no business except the election of a president or vice president, shall be transacted, without the presence of one of those officers : but no order for the investment of any moneys, or the sale or transfer of any stock or securities, or for the appointment of any officer, shall be made without the affirmative vote of at least eight of the board of trustees. And no sale, pledge or transfer of any bond and mortgage or public stock shall be valid, unless the same shall be approved in writing by the first judge or treasurer of the county of Erie, or the recorder of the city of Buffalo.

First trustees.

§ 5. The several persons named in the first section of this act, shall be the first trustees of the said incorporation; and all vacancies by death, resignation or otherwise, either in the office of president, vice president or trustee, shall be filled by ballot by the board of trustees, at their first regular meeting after such vacancy shall occur; and the person having the majority of the whole number present, and voting, shall be considered duly elected, but at least six votes shall be requisite to an election; but no trustee hereafter elected shall act as such until his election shall have been approved by the county treasurer of the county of Erie, and a certificate of such county treasurer, certifying such approval, and that the pecuniary condition and moral character of such trustee is such as to entitle him to confidence, shall have been filed in the office of the clerk of said county; and the election of such trustee shall be void, unless such certificate shall be filed in three weeks after his election: and the common council of the city of Buffalo, by a vote of a majority of all the members elected thereto, may remove any such trustee for reasons to be entered in their minutes, and after giving to him such notice of the proceedings for his removal as it shall deem reasonable.

Deposits to be received how invested

§ 6. The general business and object of the corporation hereby created, shall be to receive on deposit such sums as may be from time to time offered therefor by tradesmen, clerks, mechanics, laborers; minors, servants and others, and investing the same in the securities or stocks of this state, or of the United States, or in such other manner as is authorized by this act, for the use, interest and advantage of the said depositors and their legal representatives; and the said corporation shall receive as deposits from persons of the description above mentioned, all sums of money which may be offered for the purpose of being invested as aforesaid; which shall, as soon as practicable, be invested accordingly, and shall be repaid to each depositor when required, at such times, with such interest, and under such regulations as the

board of trustees shall from time to time prescribe ; which regulations shall be put up in some public and conspicuous place in the room where the business of the said corporation shall be transacted, but shall not be altered so as to affect any deposit previously made. No president, vice-president, trustee, officer or servant of said corporation, shall directly or indirectly borrow the funds of said corporation, or its depositors, or in any manner use the same or any part thereof, except to pay necessary current expenses under the direction of the said board of trustees. All certificates or other evidences of deposit made by the proper officer of such corporation, shall be as binding on the corporation as if they were made under their common seal. It shall be the duty of the trustees of the said corporation, to regulate the rate of interest to be allowed to the depositors, so that they shall receive as near as may be a rateable proportion of all the profits of the said corporation after deducting all necessary expenses. No moneys deposited in the said institution shall be invested, except in the securities or stocks mentioned in this section, in opposition to the vote of any trustee ; but by the consent and approbation of all the trustees, present at a regular meeting, amounts not exceeding one thousand dollars to any one individual may be loaned on unincumbered real estate, worth, exclusive of buildings thereon, at least double the amount, to be secured thereby. In all cases of loans upon real estate, a sufficient bond or other satisfactory personal security shall be required of the borrower, and all the expenses of searches, examinations and certificates of title and of drawing, perfecting and recording papers, shall be paid by such borrower. And it shall be the duty of the trustees of said corporation, to invest as soon as practicable, in public stocks or public securities, or in bonds and mortgages as provided for in this act, all sums received by them beyond an available fund of not exceeding fifty thousand dollars, which they may keep to meet the current payments of said corporation, and which may by them be kept in deposit, on interest, or otherwise, in such available form as the trustees may direct.

§ 7. The board of trustees of the said corporation shall By laws. have power, from time to time, to make, constitute, ordain and establish such by-laws, rules and regulations as they shall judge proper, for the election of their officers ; for prescribing their respective functions and the mode of discharging the same ; for the regulation of the times of the meetings of the officers and trustees ; and generally for transacting, managing and directing the affairs of the corporation ; provided, such by-laws, rules and regulations are not repugnant to this act, to the constitution or laws of this state, or of the United States.

Agents to
give security.

§ 8. The subordinate officers and agents of the said corporation, shall respectively give such security for their fidelity and good conduct as the board of trustees may, from time to time, require; and said board shall fix the salaries of such officers and agents.

Annual re-
port.

§ 9. The said corporation shall, in the month of February in every year hereafter, make a report to the legislature of this state, and to the common council of the city of Buffalo, of their funds and investments.

Books by
whom may
be inspected.

§ 10. The books of the said corporation shall, at all times during their hours for business, be open for inspection and examination to the comptroller of this state, and such other persons as the legislature or the comptroller shall designate or appoint, as their agent for such purpose. Whenever any agent shall be appointed to make any such examination, he shall be paid for his services by such corporation such sum as the comptroller shall certify to be reasonable and just.

Deposits by
minors.

§ 11. When any deposit shall be made by any person being a minor, the trustees of the said corporation may, at their discretion, pay to such depositor such sums as may be due to him or her, not exceeding two hundred and fifty dollars, although no guardian shall have been appointed for such minor, or the guardian of such minor shall not have authorized the drawing of the same; and the check, receipt or acquittance of such minor shall be as valid as if the same was executed by a guardian of such minor, or the said minor was of full age, if such deposit was made personally by said minor.

Amount
limited.

§ 12. The amount of deposits, held at any one time by such corporation, shall not exceed seven hundred and fifty thousand dollars.

Report to be
made.

§ 13. The board of trustees shall also, in the month of February in each year, report to the legislature and to the common council of the city of Buffalo, the aggregate amount of deposits on hand, with the interest which has accrued thereon, and also the unclaimed deposits on which at least the sum of three dollars shall then be due, and which shall have been deposited by persons who have not within the two years next preceding said report, made a deposit or received a dividend or payment from said corporation, and shall publish the same in one of the newspapers published in the city of Buffalo.

Saving
clause.

§ 14. The misnomer of the said corporation in any deed, gift, grant or other instrument, contract or conveyance, shall not vitiate the same, if the corporation shall be sufficiently described therein to ascertain the intention of the parties.

1b.

§ 15. No trustee or other officer of the said corporation shall at any time make, or have any interest in, any of the

deposits in said corporation, or the profits arising therefrom.

§ 16. The board of supervisors of the county of Erie, at their annual meeting in each year, shall appoint a committee to examine into the business and affairs of the corporation hereby created, and report thereon to that board; which committee may consist in whole or in part of members of the said board, as the said board shall determine. The books, papers and business of said corporation shall at all times be open to the inspection of such committee or any member thereof, and if such committee shall find that any trustee, officer or servant of said corporation has been guilty of any fraud or misconduct, they shall report the same to the district attorney of the county of Erie, who shall take such measures for the benefit of said corporation, and those having funds deposited with such corporation, as he, on consultation with the trustees of said corporation not implicated in such fraud or misconduct, shall deem expedient.

Committee to examine affairs of the corporation.

§ 17. The corporation hereby created shall be subject to the provisions and restrictions contained in the eighteenth chapter of the first part of the Revised Statutes, so far as the same are applicable, and the legislature may at any time amend, alter or repeal this act.

General powers.

§ 18. This act shall take effect immediately.

CHAP. 177.

AN ACT to amend an act to incorporate the village of Dansville, passed May 7, 1845.

Passed May 9, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the provisions of the act entitled "An act to incorporate the village of Dansville," passed May 7th, 1845, shall have full force and effect, from and after the passage of this act, except so far as is otherwise provided by this act.

Provisions of act of 1845.

§ 2. The first meeting of the inhabitants of the said village, mentioned in the fourth section of the said act, and thereby required to be held on the first Tuesday of June, one thousand eight hundred and forty-five, shall be held on the third Tuesday of June one thousand eight hundred and forty-six.

First meeting of inhabitants.

§ 3. The sum of eight hundred dollars specified in the eleventh section of the said act, and thereby authorized to be raised in the year commencing on the first Tuesday of May one thousand eight hundred and forty-five, may be raised in the manner and for the purposes prescribed and set forth

Money to be raised by tax.

in the said act in the year commencing on the first Tuesday of May one thousand eight hundred and forty-six.

Pound.

§ 4. At any such meeting of the inhabitants of the said village as is mentioned in the eleventh section of the said act, the persons entitled to vote thereat may direct the trustees of the said village to procure or erect a pound; the said trustees shall appoint a pound-master, and prescribe his duties and fees, when a pound shall have been procured or erected pursuant to the provisions of the act aforesaid and of this act; the said trustees may appoint one company, and no more, of firemen, of not more than thirty members, for each fire engine procured by the said village; and the said trustees may, in their discretion, restrain cattle, horses, sheep, swine and geese, from running at large in the said village.

Firemen.

Right to
repeal.

§ 5. This act shall take effect immediately, and the legislature may at any time alter or repeal the same.

CHAP. 178.

AN ACT to authorize the board of supervisors of the county of Montgomery to raise money in the town of Canajoharie, for roads and bridges.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money to be
raised by tax.

§ 1. It shall be the duty of the board of supervisors of the county of Montgomery to cause the sum of seven hundred dollars to be assessed, levied and collected in the town of Canajoharie, for roads and bridges, in the same manner as other town charges are collected, in addition to the sum now authorized by law to be collected for that purpose.

CHAP. 179.

AN ACT for the relief of the Auburn and Rochester Railroad Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Present
track of the
road con-
firmed.

§ 1. The present track of the railroad of the Auburn and Rochester Railroad Company, east of the square in the town of Canandaigua, in the county of Ontario, and in the town of Phelps in the same county, and in the villages of Waterloo and Seneca-Falls, in the county of Seneca, where the

same at the places aforesaid, as now constructed and used. deviates from the line of the said railroad as it was originally located, shall have the same validity and the rights of the company in respect thereto shall be the same as if the line of the said railroad, at the places aforesaid, had been originally located where the said track is now constructed.

§ 2. The said company is hereby authorized to change the present track of their railroad, as now located and constructed in the village of Vienna, in the town of Phelps, in the county of Ontario, so as to remove the existing encroachment by the said railroad upon the public highway called Pleasant-street in said village, and to take such lands as may be necessary for that purpose; such change shall be made in such manner as the supervisor and commissioners of highways of the said town of Phelps, or any three of them, shall, by an instrument in writing, to be signed by them, or a majority of them, and acknowledged or proved as deeds of real estate are by law required to be proved or acknowledged, and filed in the office of the clerk of Ontario county, approve; and the said company, before taking any lands not acquired by it by contract, for the purpose of making such change, shall apply to the owners thereof to purchase so much thereof as may be necessary for such change; and to pay such damages occasioned by such change; and if the said company and the owners of such lands or persons sustaining damages cannot agree upon the terms of such purchase, or payment of such damages, or if such owners or persons sustaining damages, shall be incompetent by any legal disability to make any agreement for the sale thereof, the said company shall pay such compensation for said lands or damages, to such owners or others as shall be awarded to them therefor, by an appraisal to be made by such officers, and in the manner hereinafter mentioned, or as shall be allowed by any vice-chancellor in case of an appeal, as hereinafter provided; and the new location and track which the said company shall make, in order to effect the said change, shall, when made, have the same validity, and the rights of the said company, in respect thereto, shall be the same as if the said company had originally located the line of the said railroad where the said new track shall be constructed.

Track in the village of Vienna may be changed.

§ 3. It shall be the duty of the said company, and the said company is hereby required to make the principal stopping place of their trains of cars, in the said town of Phelps, at the intersection of the track of the said company with Church-street, in the village of Vienna, in the said town; and to construct such a depot and storehouse as shall be sufficient for the accommodation of their business at the said village with the said railroad, in the reception and discharge of passengers, baggage and freight. Such depot and storehouse shall be located

Principal stopping place.

on a point of land formed by the intersection of Church-street aforesaid with the track of the said company, as changed in pursuance of the provisions of this act, and they shall be completed within ninety days after such track shall be so changed.

Track in the
village of
Canandaigua.
sua.

§ 4. The track of the railroad of the said company, as now constructed over the public square in the village of Canandaigua, in the county of Ontario, and over the road or highway running between the court-house and town-house, westerly from Main-street in the said village, shall be the track of the said company over the said public square and road or highway ; but no more of the said public square shall be used or occupied by the said company for any purpose whatever than is necessary for the running of their cars over the same ; and the embankment and excavation upon the said public square shall be made and kept in such manner as the board of trustees of the village of Canandaigua shall direct ; but nothing contained in this act shall authorize the continuance of the bridge of the said company over the said road or highway as the same is now constructed ; and so much of the embankment on which the track of the said company is constructed as encroaches on the said road or highway, as the same was laid out or used before such encroachment, shall be removed by the said company from the said road or highway, within six months from the passage of this act, and no part of any such or similar embankment shall thereafter be so placed or constructed as to encroach on any part of the said road or highway as laid out or used as aforesaid ; and the said embankment shall on each side of the road or highway be secured by a substantial stone wall of the height and the width of such embankment ; and any embankment or encroachment continued or made in or upon any part of the said road or highway, contrary to the provisions of this section shall be deemed a public nuisance, and shall be summarily removed by the trustees aforesaid, who are hereby required so to remove the same. And the board of supervisors of Ontario county is hereby prohibited from doing or assenting to any act whatever, whereby the right, title and interest of the said board or their successors in office, in and to the said public square, under and by virtue of a conveyance thereof to the supervisors of the county of Ontario and their successors forever, by Oliver Phelps and Nathaniel Gorham, dated the eighteenth day of July, one thousand eight hundred, and recorded in the office of the clerk of said county, shall be in any wise forfeited or impaired ; and every act done or assent given by the said board in violation of the foregoing prohibition shall be absolutely void and of no effect whatever.

§ 5. In any case not hereinbefore provided for, where the said company shall not have acquired a valid and sufficient title to any land occupied by the track of the said railroad, or where the title to any such lands has been or shall hereafter be rendered invalid, by reason of any mortgage, judgment or other lien, affecting the same, the said company, in either case, is authorized to obtain and acquire title to the said lands by purchase of the persons, bodies corporate or politic owning the same, or having an interest therein, if such purchase can be effected by agreement between the owners thereof and said company; but if not, the damages which the persons, bodies corporate or politic, owning or having an interest in the said lands, will sustain by the use thereof for the said railroad, shall be appraised by the supervisor and commissioners of highways, or any three of them, of the town in which the lands are situated, in the manner hereinafter provided; and upon paying for the said lands and the damages that shall be appraised by the said officers as aforesaid, to the persons entitled thereto, or upon tendering the same to such persons, the said company shall thereby become vested with the title to the said lands, for the use of the said railroad.

Title how to
be acquired
in certain ca-
ses.

§ 6. Whenever, and as often as the appraisal of any land or damages under the provisions of this act shall become necessary, it is hereby made the duty of the supervisor and commissioners, or a majority of them, of the town in which the lands to be appraised are situated, to proceed and make such appraisal in the manner hereinafter directed, on being applied to by the said company for that purpose; and on being furnished with a map and description of the lands to be appraised, together with the names and residence of the persons, or corporations, owning or having any interest therein, so far as the same can be ascertained, the said appraisers shall, by an order, under their hands, appoint a convenient time and place for the hearing of the said application, notice whereof for such length of time not exceeding thirty, nor less than fourteen days, shall be served upon the party interested in the lands or damages to be appraised, in such manner as the appraisers shall, in and by their order, direct; and on the day so appointed, the said appraisers shall meet in pursuance of said order, and having organized by taking and subscribing an oath, or affirmation, which may be administered by any officer authorized to take affidavits to be read in the supreme court, faithfully and honestly to appraise the lands required for the use of the said company, or said damages, and to make a just award of the damage which all persons, or corporations, owning or being interested in the said lands, will sustain by the appropriation thereof for the pur-

Land how to
be appraised

poses of the said company, or in said damages according to the best of their judgment and ability, shall proceed to view the lands to be appraised, and to ascertain the damages; and after hearing the proof and allegation of the parties, they, or any three of them, agreeing, shall make up and sign their award of the damages aforesaid, and shall acknowledge the same before some officer authorized to take the acknowledgment of deeds, and cause the same to be filed in the office of the clerk of the county in which the damages accrue or the land appraised is situated.

Provision in
case of in-
fancy, &c.

§ 7. If any person interested in lands or damages to be appraised by virtue of this act shall be incapable of acting as a party by reason of infancy, coverture or other legal disability, and there shall be no one duly authorized by law to act instead of such persons, the said appraisers, on being applied to for that purpose by the said company, are authorized and required to appoint, by an order in writing, to be made and signed by them, some responsible freeholder, as special guardian, who shall thereby be empowered to appear for, and take care of the interests of, the person, so incapacitated, in the proceedings in reference to which such appointment shall be made, and any special guardian, being appointed as aforesaid, shall, before entering upon his duties as such guardian, execute a bond with one sufficient surety, to be approved by the said appraisers, in such penalty as they shall direct, to the person for whom he is appointed guardian, conditioned for the faithful discharge of the trust reposed in him, which bond shall be filed in the office of the clerk of the county where the lands to be appraised are situated.

Rights of the
guardian.

§ 8. In all cases of the appraisal of land authorized by this act, or of damages, and in every proceeding in relation thereto in which the appointment of a special guardian for any person shall be necessary, and such appointment shall have been made in accordance with the provisions of the last preceding section, the guardian so appointed shall be regarded and treated in all respects as a party representing the interest of the person or persons owning or interested in the land or damages to be appraised; and the said proceedings in such case shall be as effectual and conclusive upon the person or persons represented by special guardian as aforesaid as the same would be upon a party competent to act for himself.

Appraisers
may adjourn
and call wit-
nesses.

§ 9. Whenever the supervisor and commissioners of highways of any town shall have met together to make an appraisal of damages in pursuance of this act, and shall have organized by taking and subscribing the oath in such case required, they shall have authority to adjourn their meeting from time to time as they may deem proper, and to issue subpoenas requiring the attendance of necessary witnesses to

appear before them ; and each of the said officers is authorized to administer the proper oath or affirmation to such witnesses as may be examined before them, and to take any affidavit relating to the proceedings in any appraisal of damages which they may be called upon to make. And it shall be the duty of the said appraisers to keep minutes of their proceedings in making an appraisal, and to deposit the same, together with their award of damages, and all papers used before them relating thereto, in the office of the clerk of the county where the land appraised shall be situated or the damages awarded. The said appraisers shall each be entitled to three dollars a day for their services while attending to the duties required of them by this act, to be paid by the said company.

§ 10. Either party feeling aggrieved by an appraisal of land or damages made in pursuance of this act, is authorized to appeal therefrom within thirty days from the time of being notified of such appraisal, to the vice-chancellor of the circuit in which the same is made, by a notice in writing to that effect, to be served upon the opposite party ; and such vice-chancellor is authorized to hear such appeal, and the proofs and allegations of the parties in relation thereto, and on such hearing to confirm the said appraisal, or to alter the same in such manner and to such an extent as he shall deem reasonable and just. Right of appeal.

§ 11. All provisions of law imposing penalties or punishments for injuries to the track of the said railroad, or for placing any obstruction thereon, or for any other act done thereto, shall apply and are hereby made applicable to the track of the said railroad as changed and sanctioned, or to be changed under and by virtue of this act. But nothing in this act contained shall be construed to affect in any manner, any claim to damages which may have been, or may be occasioned to the mill-race commonly called Brown race, in the city of Rochester, by the erection or continuance of the railroad bridge over the Genesee river, and said race. Penalties.

§ 12. The said company, upon being thereto required by the Post-Master-General of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for the compensation provided by an act of congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3d, 1845 ; and, if the said company shall neglect or refuse to enter into such contract within twenty days after being so required, it shall forfeit and pay to the Contracts for carrying mails of the U. States.

people of this state, fifty dollars for every day it shall so neglect or refuse.

Right to repeal.

§ 13. This act shall take effect immediately, and the legislature may at any time alter or repeal the same.

CHAP. 180.

AN ACT to amend the act entitled "*An act to incorporate the Cayuga and Susquehanna Railroad Company,*" passed April 18, 1843.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

New track may be constructed.

§ 1. The Cayuga and Susquehanna Railroad Company are hereby authorized to construct a single or double track railroad from any point on their present road, within ten miles of the village of Ithaca, upon such route as the directors shall deem most practicable and for the public convenience, to any other point on their said road, or to the navigable waters of the Cayuga lake, at some place within the county of Tompkins ; and for the purpose of acquiring and taking possession of the necessary land upon which to construct such road, the said corporation shall possess and enjoy all the powers and privileges which are granted to, and made in favor of the corporation created by the act of the Legislature of this State, entitled "*An act to provide for the construction of a railroad from Attica to Buffalo,*" passed May 3d, 1836, except as hereinafter provided.

Application to Vice-Chancellor.

§ 2 Any application to be made to a vice-chancellor under this act, shall be made to a vice-chancellor of the circuit in which the land proposed to be taken shall be situated, and all notices and meetings required by the act above referred to, shall be published and held in the county through which the said road, or some part thereof hereby authorized, is to be made.

Capital stock may be increased.

§ 3. For the purpose of constructing the railroad hereby authorized, and of making any alteration or improvement in the construction of its present road, which by law it is authorized to make, the said Cayuga and Susquehanna Railroad Company is hereby authorized and empowered to increase its capital stock to such amount as the directors thereof shall from time to time determine to be necessary, not exceeding in the whole the sum of five hundred thousand dollars.

Amount to be fixed.

§ 4. The amount of such increase of stock shall be fixed by the directors by resolution, whereupon the new stock hereby authorized to be created, or any part thereof, may be issu-

ed and disposed of in such manner as the directors may deem expedient. Exemplification of judgment record or decree may be recorded.

§ 5. The shares of the capital stock of the Cayuga and Susquehanna Railroad Company may, by a resolution of the directors thereof, to be entered on their minutes, be enlarged to the sum of sixty dollars each, and after such enlargement each stockholder in choosing directors, shall be entitled to one vote for every share of stock held by him for thirty days immediately previous to such election; and the said directors, upon the request of any person holding stock in said company, issued previous to the enlargement of any such shares under the authority of this act, shall issue to such person certificates or other evidence of stock, at such enlarged valuation, in exchange for the stock then held by such person, at the rate of fifteen dollars for each share; provided that this act shall work no forfeiture of stock issued previous to any such enlargement, for the non-payment of the additional amount, and that after such enlargement no stockholder shall be entitled to vote for the choice of directors upon less than one whole share of such enlarged stock. Index.

§ 6. In the construction and management of the railroad authorized by this act, the said Cayuga and Susquehanna Railroad Company may exercise all the powers, and shall be subject to all the provisions and restrictions contained in the act hereby amended, which are not inconsistent with the provisions of this act. General powers.

§ 7. The Cayuga and Susquehanna Railroad Company, after the construction of the railroad authorized by this act, may, by resolution of the directors thereof, to be entered on their minutes, relinquish and abandon the whole or any portion of its present road, from the northern termination thereof to the southern termination of the railroad authorized by this act. Present road may be abandoned.

§ 8. The Legislature may at any time alter, modify or repeal this act. Right to repeal.

CHAP. 181.

AN ACT to amend the charter of the Canandaigua and Corning Railroad Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The fourth section of the act entitled "An Act to provide for the construction of a railroad from the village of Canandaigua, in the county of Ontario, to the village of Distribution of stock and election of directors.

Corning, in the county of Steuben," passed May 14, 1845, shall be and is hereby so amended as to authorize and allow the said company, so soon as eight hundred thousand dollars of their capital stock shall be subscribed, and ten dollars on each one hundred dollars so subscribed actually paid in, to have a distribution of the shares among the subscribers, and the several shareholders may proceed to elect directors, and otherwise organize as provided in the said fourth section, in the same manner as they might have done under the provisions of the section hereby amended, if the whole amount of one million six hundred thousand dollars, as therein provided, had been subscribed. And after such organization, under the subscription of eight hundred thousand dollars, the company may proceed to construct their road or railway, conforming in all other respects to the provisions of the act hereby amended; but the said road shall be built with an iron rail, weighing not less than fifty-six pounds to the yard.

§ 2. This act shall take effect immediately.

CHAP. 182.

AN ACT to authorize the recording of wills of real estate and of exemplifications of judgment records and decrees in partition suits, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Wills may be
recorded by
county
clerks.

§ 1. Any will of real estate which shall have been duly proved in the supreme court, or court of chancery, or before the surrogate of any county in this state, with the proofs taken, on the proof thereof, and the certificate of proof annexed thereto or endorsed thereon, may be recorded in the clerk's office of any county in this state, in the same manner that conveyances of real estate are now authorized to be recorded. Any exemplification of the record of any such will from the office of the clerk of the supreme court, register, assistant register, or clerk in chancery, or surrogate, where the same may be recorded, or from any other office where the same hereafter by law be recorded, may in like manner be recorded in the clerk's office of any county. The record of such will or exemplification so made as aforesaid, and the exemplifications of such record shall be received in evidence, and shall be as effectual in all cases as the original will would be if produced and proved, and may in like manner be repelled by contrary proof.

§ 2. An exemplification of any judgment record or decree in partition, may in like manner be recorded in the clerk's office of any county of this state in which any lands described therein may be situated. Such record or an exemplification thereof shall be received in evidence, and shall be as effectual in all cases as the original exemplification would be if produced, and shall be open to the same objections. Exemplification of judgment record or decree may be recorded.

§ 3. On recording any such will or exemplification the clerk shall index the same in the indices of deeds, substantially as such clerks are now required to index deeds recorded in their respective offices. Index.

§ 4. Such clerks shall receive for such recording the same fees which shall be from time to time allowed them for the recording of conveyances of real estate; and any executor of a will or administrator with the will annexed who shall procure such will to be recorded in the clerk's office of any county in which the lands devised thereby may be situated, shall be allowed the fees paid by him for such recording in the settlement of his accounts. Fees.

§ 5. This act shall take effect immediately.

CHAP. 183.

AN ACT requiring the land agent in the fifteenth township of the town of Norwich, Chenango county, to give bond for the faithful discharge of his duty.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Every land agent hereafter elected for the fifteenth township in the town of Norwich, county of Chenango, shall, before he enters upon the duties of his office, execute an instrument in writing with two sureties to be approved by the supervisor of the said town of Norwich, conditioned in the penalty of three thousand dollars, that he will faithfully discharge the duties of his office, and that he will pay over on demand, to his successor in office, all monies and obligations for money received by him in virtue of his office, which shall not have been expended or disposed of according to law, and file the said instrument in writing in the office of the town clerk of the said town of Norwich. Agent to give bond.

§ 2. This act shall take effect immediately.

CHAP. 184.

AN ACT for the better security of mechanics and others erecting buildings and furnishing materials therefor, in the county of Richmond.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Contractors,
laborers, &c.
to have a
lien on build-
ing.

§ 1. Any person who shall, hereafter, by virtue of any contract with the owner thereof, or his agent, or any person who in pursuance of an agreement with any such contractor, shall, in conformity with the terms of the said contract, perform any labor or furnish materials in building, altering or repairing any house or other building, or appurtenances to any house or other building, in the county of Richmond, shall have a lien for the value of such labor and materials, upon such house or building and appurtenances, and upon the lot of land on which the same stand, to the extent of the right, title and interest at that time existing, of such owner, in the manner and to the extent hereinafter provided ; but such owner shall not be obliged to pay for, or on account of such house, other building or appurtenances, in consideration of all the liens authorized by this act to be created, any greater sum or amount than the price stipulated and agreed to be paid therefor in and by such contract.

Written con-
tract evi-
dence of ma-
terials fur-
nished or la-
bor perform-
ed.

§ 2. Any person furnishing such materials or performing such labor in pursuance of a written contract with such owner or his agent, shall produce such contract, or the best evidence thereof in his possession, the validity of which shall be established in evidence before the court in which he may bring his suit to recover the value of his lien, and shall recover no more than the price stipulated to be paid to him in such contract.

Other evi-
dence to be
produced.

§ 3. Any person performing such labor or furnishing such materials without a written contract with such owner or his agent, shall produce evidence as mentioned in the preceding section, to establish the value of such labor or materials, and that the same were used by the said owner or his agent or the original contractor, in the erection, alteration or repairing of such building.

Lien how
enforced and
brought to a
close.

§ 4. Any contractor or laborer, or any person furnishing materials in pursuance of any contract made by such contractor with such owner, or his said agent therefor, may, after such labor has been performed, or materials furnished, enforce or bring to a close such lien, by serving or causing a notice to be served personally on such owner or his agent, contractor or laborer, or person furnishing materials, requir-

ing him to appear in the court of common pleas of the county or in a justice's court of the town in which such building is situated, either in person or by attorney, at a time certain, on some day to be specified in such notice, not less than twenty days from the service thereof, and submit to an accounting and settlement in such court, of the amount due, or claimed to be due for the labor thus performed, or the materials thus furnished.

§ 5. At the time, or within fifteen days after the service of such notice, a bill of particulars of the amount claimed to be due shall be served personally on such owner, and also a bill of particulars of any offset which may be claimed to the same shall be served in like manner upon the laborer, contractor or person furnishing materials, as the case may be. Bill of particulars to be served on owner.

§ 6. In case such contractor, laborer or person furnishing materials, shall not appear and produce his claim, as specified in sections four and five, he shall forever lose the benefit and be precluded of his said lien; and in case such owner shall not appear in pursuance of the requirements of the said sections, at the time and place specified in such notice, then his default shall be entered in the book of common rules of the said court of common pleas, or upon the docket of the said justice's court, and thereupon a writ of inquiry and inquisition may issue to the sheriff of said county, to be executed, or the amount of such claim shall be assessed by the said justices court, as the case may be; and judgment shall be entered upon the same, and execution shall issue for the enforcement of the said claim so adjudicated and established, in the same manner as in cases upon judgments in such courts in actions of assumpsit. Claim when forfeited, &c.

§ 7. On the appearance of both parties in pursuance of the above requirements, issue shall be joined upon the claims made and notices of set off served, and the same may be noticed for trial and put upon the calendar of said court by either party, and shall be governed, tried, and the judgment therein enforced, in all respects in the same manner as upon issues joined and judgments rendered in actions of assumpsit in the said court. Issue when joined.

§ 8. Costs shall be allowed upon the same principles and by the same rules, in such proceedings, as they are now allowed by statute in an action of assumpsit, and shall form a part of the judgment recovered in the same. Costs.

§ 9. Such owner or his agent may at any time give public notice in the same manner as notice is required to be given for the sale of real estate by virtue of a writ of fieri facias, to all persons having claims under any of the provisions of this act against any such building or appurtenances, at the time of the date of said notice, to present the same with vouchers in Owner or agent may give public notice.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands " therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands " in said town arising from a failure to elect, death, re- Vacancies.

on a point of land formed by the intersection of Church-street aforesaid with the track of the said company, as changed in pursuance of the provisions of this act, and they shall be completed within ninety days after such track shall be so changed.

Track in the
village of
Canandaigua.

§ 4. The track of the railroad of the said company, as now constructed over the public square in the village of Canandaigua, in the county of Ontario, and over the road or highway running between the court-house and town-house, westerly from Main-street in the said village, shall be the track of the said company over the said public square and road or highway ; but no more of the said public square shall be used or occupied by the said company for any purpose whatever than is necessary for the running of their cars over the same ; and the embankment and excavation upon the said public square shall be made and kept in such manner as the board of trustees of the village of Canandaigua shall direct ; but nothing contained in this act shall authorize the continuance of the bridge of the said company over the said road or highway as the same is now constructed ; and so much of the embankment on which the track of the said company is constructed as encroaches on the said road or highway, as the same was laid out or used before such encroachment, shall be removed by the said company from the said road or highway, within six months from the passage of this act, and no part of any such or similar embankment shall thereafter be so placed or constructed as to encroach on any part of the said road or highway as laid out or used as aforesaid ; and the said embankment shall on each side of the road or highway be secured by a substantial stone wall of the height and the width of such embankment ; and any embankment or encroachment continued or made in or upon any part of the said road or highway, contrary to the provisions of this section shall be deemed a public nuisance, and shall be summarily removed by the trustees aforesaid, who are hereby required so to remove the same. And the board of supervisors of Ontario county is hereby prohibited from doing or assenting to any act whatever, whereby the right, title and interest of the said board or their successors in office, in and to the said public square, under and by virtue of a conveyance thereof to the supervisors of the county of Ontario and their successors forever, by Oliver Phelps and Nathaniel Gorham, dated the eighteenth day of July, one thousand eight hundred, and recorded in the office of the clerk of said county, shall be in any wise forfeited or impaired ; and every act done or assent given by the said board in violation of the foregoing prohibition shall be absolutely void and of no effect whatever.

§ 5. In any case not hereinbefore provided for, where the said company shall not have acquired a valid and sufficient title to any land occupied by the track of the said railroad, or where the title to any such lands has been or shall hereafter be rendered invalid, by reason of any mortgage, judgment or other lien, affecting the same, the said company, in either case, is authorized to obtain and acquire title to the said lands by purchase of the persons, bodies corporate or politic owning the same, or having an interest therein, if such purchase can be effected by agreement between the owners thereof and said company; but if not, the damages which the persons, bodies corporate or politic, owning or having an interest in the said lands, will sustain by the use thereof for the said railroad, shall be appraised by the supervisor and commissioners of highways, or any three of them, of the town in which the lands are situated, in the manner hereinafter provided; and upon paying for the said lands and the damages that shall be appraised by the said officers as aforesaid, to the persons entitled thereto, or upon tendering the same to such persons, the said company shall thereby become vested with the title to the said lands, for the use of the said railroad.

Title how to
be acquired
in certain cases.

§ 6. Whenever, and as often as the appraisal of any land or damages under the provisions of this act shall become necessary, it is hereby made the duty of the supervisor and commissioners, or a majority of them, of the town in which the lands to be appraised are situated, to proceed and make such appraisal in the manner hereinafter directed, on being applied to by the said company for that purpose; and on being furnished with a map and description of the lands to be appraised, together with the names and residence of the persons, or corporations, owning or having any interest therein, so far as the same can be ascertained, the said appraisers shall, by an order, under their hands, appoint a convenient time and place for the hearing of the said application, notice whereof for such length of time not exceeding thirty, nor less than fourteen days, shall be served upon the party interested in the lands or damages to be appraised, in such manner as the appraisers shall, in and by their order, direct; and on the day so appointed, the said appraisers shall meet in pursuance of said order, and having organized by taking and subscribing an oath, or affirmation, which may be administered by any officer authorized to take affidavits to be read in the supreme court, faithfully and honestly to appraise the lands required for the use of the said company, or said damages, and to make a just award of the damage which all persons, or corporations, owning or being interested in the said lands, will sustain by the appropriation thereof for the pur-

Land how to
be appraised

poses of the said company, or in said damages according to the best of their judgment and ability, shall proceed to view the lands to be appraised, and to ascertain the damages; and after hearing the proof and allegation of the parties, they, or any three of them, agreeing, shall make up and sign their award of the damages aforesaid, and shall acknowledge the same before some officer authorized to take the acknowledgment of deeds, and cause the same to be filed in the office of the clerk of the county in which the damages accrue or the land appraised is situated.

Provision in
case of in-
fancy, &c.

§ 7. If any person interested in lands or damages to be appraised by virtue of this act shall be incapable of acting as a party by reason of infancy, coverture or other legal disability, and there shall be no one duly authorized by law to act instead of such persons, the said appraisers, on being applied to for that purpose by the said company, are authorized and required to appoint, by an order in writing, to be made and signed by them, some responsible freeholder, as special guardian, who shall thereby be empowered to appear for, and take care of the interests of, the person, so incapacitated, in the proceedings in reference to which such appointment shall be made, and any special guardian, being appointed as aforesaid, shall, before entering upon his duties as such guardian, execute a bond with one sufficient surety, to be approved by the said appraisers, in such penalty as they shall direct, to the person for whom he is appointed guardian, conditioned for the faithful discharge of the trust reposed in him, which bond shall be filed in the office of the clerk of the county where the lands to be appraised are situated.

Rights of the
guardian.

§ 8. In all cases of the appraisal of land authorized by this act, or of damages, and in every proceeding in relation thereto in which the appointment of a special guardian for any person shall be necessary, and such appointment shall have been made in accordance with the provisions of the last preceding section, the guardian so appointed shall be regarded and treated in all respects as a party representing the interest of the person or persons owning or interested in the land or damages to be appraised; and the said proceedings in such case shall be as effectual and conclusive upon the person or persons represented by special guardian as aforesaid as the same would be upon a party competent to act for himself.

Appraisers
may adjourn
and call wit-
nesses.

§ 9. Whenever the supervisor and commissioners of highways of any town shall have met together to make an appraisal of damages in pursuance of this act, and shall have organized by taking and subscribing the oath in such case required, they shall have authority to adjourn their meeting from time to time as they may deem proper, and to issue subpoenas requiring the attendance of necessary witnesses to

appear before them ; and each of the said officers is authorized to administer the proper oath or affirmation to such witnesses as may be examined before them, and to take any affidavit relating to the proceedings in any appraisal of damages which they may be called upon to make. And it shall be the duty of the said appraisers to keep minutes of their proceedings in making an appraisal, and to deposit the same, together with their award of damages, and all papers used before them relating thereto, in the office of the clerk of the county where the land appraised shall be situated or the damages awarded. The said appraisers shall each be entitled to three dollars a day for their services while attending to the duties required of them by this act, to be paid by the said company.

§ 10. Either party feeling aggrieved by an appraisal of land or damages made in pursuance of this act, is authorized to appeal therefrom within thirty days from the time of being notified of such appraisal, to the vice-chancellor of the circuit in which the same is made, by a notice in writing to that effect, to be served upon the opposite party ; and such vice-chancellor is authorized to hear such appeal, and the proofs and allegations of the parties in relation thereto, and on such hearing to confirm the said appraisal, or to alter the same in such manner and to such an extent as he shall deem reasonable and just. Right of appeal.

§ 11. All provisions of law imposing penalties or punishments for injuries to the track of the said railroad, or for placing any obstruction thereon, or for any other act done thereto, shall apply and are hereby made applicable to the track of the said railroad as changed and sanctioned, or to be changed under and by virtue of this act. But nothing in this act contained shall be construed to affect in any manner, any claim to damages which may have been, or may be occasioned to the mill-race commonly called Brown race, in the city of Rochester, by the erection or continuance of the railroad bridge over the Genesee river, and said race. Penalties.

§ 12. The said company, upon being thereto required by the Post-Master-General of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for the compensation provided by an act of congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3d, 1845 ; and if the said company shall neglect or refuse to enter into such contract within twenty days after being so required, it shall forfeit and pay to the Contracts for carrying mails of the U. States.

people of this state, fifty dollars for every day it shall so neglect or refuse.

Right to re-
peal.

§ 13. This act shall take effect immediately, and the legislature may at any time alter or repeal the same.

CHAP. 180.

AN ACT to amend the act entitled "*An act to incorporate the Cayuga and Susquehanna Railroad Company,*" passed April 18, 1843.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

New track
may be con-
structed.

§ 1. The Cayuga and Susquehanna Railroad Company are hereby authorized to construct a single or double track railroad from any point on their present road, within ten miles of the village of Ithaca, upon such route as the directors shall deem most practicable and for the public convenience, to any other point on their said road, or to the navigable waters of the Cayuga lake, at some place within the county of Tompkins ; and for the purpose of acquiring and taking possession of the necessary land upon which to construct such road, the said corporation shall possess and enjoy all the powers and privileges which are granted to, and made in favor of the corporation created by the act of the Legislature of this State, entitled "*An act to provide for the construction of a railroad from Attica to Buffalo,*" passed May 3d, 1836, except as hereinafter provided.

Application
to Vice-Chan-
cellor.

§ 2 Any application to be made to a vice-chancellor under this act, shall be made to a vice-chancellor of the circuit in which the land proposed to be taken shall be situated, and all notices and meetings required by the act above referred to, shall be published and held in the county through which the said road, or some part thereof hereby authorized, is to be made.

Capital stock
may be in-
creased.

§ 3. For the purpose of constructing the railroad hereby authorized, and of making any alteration or improvement in the construction of its present road, which by law it is authorized to make, the said Cayuga and Susquehanna Railroad Company is hereby authorized and empowered to increase its capital stock to such amount as the directors thereof shall from time to time determine to be necessary, not exceeding in the whole the sum of five hundred thousand dollars.

Amount to
be fixed.

§ 4. The amount of such increase of stock shall be fixed by the directors by resolution, whereupon the new stock hereby authorized to be created, or any part thereof, may be issu-

ed and disposed of in such manner as the directors shall deem expedient.

§ 5. The shares of the capital stock of the Cayuga and Susquehanna Railroad Company may, by a resolution of the directors thereof, to be entered on their minutes, be enlarged to the sum of sixty dollars each, and after such enlargement, each stockholder in choosing directors, shall be entitled to one vote for every share of stock held by him for thirty days immediately previous to such election; and the said directors, upon the request of any person holding stock in said company, issued previous to the enlargement of any such shares under the authority of this act, shall issue to such person certificates or other evidence of stock, at such enlarged valuation, in exchange for the stock then held by such person, at the rate of fifteen dollars for each share; provided that this act shall work no forfeiture of stock issued previous to any such enlargement, for the non-payment of the additional amount, and that after such enlargement no stockholder shall be entitled to vote for the choice of directors upon less than one whole share of such enlarged stock. Shares may be enlarged.

§ 6. In the construction and management of the railroad authorized by this act, the said Cayuga and Susquehanna Railroad Company may exercise all the powers, and shall be subject to all the provisions and restrictions contained in the act hereby amended, which are not inconsistent with the provisions of this act. General powers.

§ 7. The Cayuga and Susquehanna Railroad Company, after the construction of the railroad authorized by this act, may, by resolution of the directors thereof, to be entered on their minutes, relinquish and abandon the whole or any portion of its present road, from the northern termination thereof to the southern termination of the railroad authorized by this act. Present road may be abandoned.

§ 8. The Legislature may at any time alter, modify or repeal this act. Right to repeal.

CHAP. 181.

AN ACT to amend the charter of the Canandaigua and Corning Railroad Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The fourth section of the act entitled "An Act to provide for the construction of a railroad from the village of Canandaigua, in the county of Ontario, to the village of Distribution of stock and election of directors.

Corning, in the county of Steuben," passed May 14, 1845, shall be and is hereby so amended as to authorize and allow the said company, so soon as eight hundred thousand dollars of their capital stock shall be subscribed, and ten dollars on each one hundred dollars so subscribed actually paid in, to have a distribution of the shares among the subscribers, and the several shareholders may proceed to elect directors, and otherwise organize as provided in the said fourth section, in the same manner as they might have done under the provisions of the section hereby amended, if the whole amount of one million six hundred thousand dollars, as therein provided, had been subscribed. And after such organization, under the subscription of eight hundred thousand dollars, the company may proceed to construct their road or railway, conforming in all other respects to the provisions of the act hereby amended; but the said road shall be built with an iron rail, weighing not less than fifty-six pounds to the yard.

§ 2. This act shall take effect immediately.

CHAP. 182.

AN ACT to authorize the recording of wills of real estate and of exemplifications of judgment records and decrees in partition suits, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Wills may be
recorded by
county
clerks.

§ 1. Any will of real estate which shall have been duly proved in the supreme court, or court of chancery, or before the surrogate of any county in this state, with the proofs taken, on the proof thereof, and the certificate of proof annexed thereto or endorsed thereon, may be recorded in the clerk's office of any county in this state, in the same manner that conveyances of real estate are now authorized to be recorded. Any exemplification of the record of any such will from the office of the clerk of the supreme court, register, assistant register, or clerk in chancery, or surrogate, where the same may be recorded, or from any other office where the same hereafter by law be recorded, may in like manner be recorded in the clerk's office of any county. The record of such will or exemplification so made as aforesaid, and the exemplifications of such record shall be received in evidence, and shall be as effectual in all cases as the original will would be if produced and proved, and may in like manner be repelled by contrary proof.

§ 2. An exemplification of any judgment record or decree in partition, may in like manner be recorded in the clerk's office of any county of this state in which any lands described therein may be situated. Such record or an exemplification thereof shall be received in evidence, and shall be as effectual in all cases as the original exemplification would be if produced, and shall be open to the same objections. Exemplification of judgment record or decree may be recorded.

§ 3. On recording any such will or exemplification the clerk shall index the same in the indices of deeds, substantially as such clerks are now required to index deeds recorded in their respective offices. Index.

§ 4. Such clerks shall receive for such recording the same fees which shall be from time to time allowed them for the recording of conveyances of real estate; and any executor of a will or administrator with the will annexed who shall procure such will to be recorded in the clerk's office of any county in which the lands devised thereby may be situated, shall be allowed the fees paid by him for such recording in the settlement of his accounts. Fees.

§ 5. This act shall take effect immediately.

CHAP. 183.

AN ACT requiring the land agent in the fifteenth township of the town of Norwich, Chenango county, to give bond for the faithful discharge of his duty.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Every land agent hereafter elected for the fifteenth township in the town of Norwich, county of Chenango, shall, before he enters upon the duties of his office, execute an instrument in writing with two sureties to be approved by the supervisor of the said town of Norwich, conditioned in the penalty of three thousand dollars, that he will faithfully discharge the duties of his office, and that he will pay over on demand, to his successor in office, all monies and obligations for money received by him in virtue of his office, which shall not have been expended or disposed of according to law, and file the said instrument in writing in the office of the town clerk of the said town of Norwich. Agent to give bond.

§ 2. This act shall take effect immediately.

CHAP. 184.

AN ACT for the better security of mechanics and others erecting buildings and furnishing materials therefor, in the county of Richmond.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Contractors,
laborers, &c.
to have a
lien on build-
ing.

§ 1. Any person who shall, hereafter, by virtue of any contract with the owner thereof, or his agent, or any person who in pursuance of an agreement with any such contractor, shall, in conformity with the terms of the said contract, perform any labor or furnish materials in building, altering or repairing any house or other building, or appurtenances to any house or other building, in the county of Richmond, shall have a lien for the value of such labor and materials, upon such house or building and appurtenances, and upon the lot of land on which the same stand, to the extent of the right, title and interest at that time existing, of such owner, in the manner and to the extent hereinafter provided ; but such owner shall not be obliged to pay for, or on account of such house, other building or appurtenances, in consideration of all the liens authorized by this act to be created, any greater sum or amount than the price stipulated and agreed to be paid therefor in and by such contract.

Written con-
tract evi-
dence of ma-
terials fur-
nished or la-
bor perform-
ed.

§ 2. Any person furnishing such materials or performing such labor in pursuance of a written contract with such owner or his agent, shall produce such contract, or the best evidence thereof in his possession, the validity of which shall be established in evidence before the court in which he may bring his suit to recover the value of his lien, and shall recover no more than the price stipulated to be paid to him in such contract.

Other evi-
dence to be
produced.

§ 3. Any person performing such labor or furnishing such materials without a written contract with such owner or his agent, shall produce evidence as mentioned in the preceding section, to establish the value of such labor or materials, and that the same were used by the said owner or his agent or the original contractor, in the erection, alteration or repairing of such building.

Lien how
enforced and
brought to a
close.

§ 4. Any contractor or laborer, or any person furnishing materials in pursuance of any contract made by such contractor with such owner, or his said agent therefor, may, after such labor has been performed, or materials furnished, enforce or bring to a close such lien, by serving or causing a notice to be served personally on such owner or his agent, contractor or laborer, or person furnishing materials, requir-

ing him to appear in the court of common pleas of the county or in a justice's court of the town in which such building is situated, either in person or by attorney, at a time certain, on some day to be specified in such notice, not less than twenty days from the service thereof, and submit to an accounting and settlement in such court, of the amount due, or claimed to be due for the labor thus performed, or the materials thus furnished.

§ 5. At the time, or within fifteen days after the service of such notice, a bill of particulars of the amount claimed to be due shall be served personally on such owner, and also a bill of particulars of any offset which may be claimed to the same shall be served in like manner upon the laborer, contractor or person furnishing materials, as the case may be. Bill of particulars to be served on owner.

§ 6. In case such contractor, laborer or person furnishing materials, shall not appear and produce his claim, as specified in sections four and five, he shall forever lose the benefit and be precluded of his said lien; and in case such owner shall not appear in pursuance of the requirements of the said sections, at the time and place specified in such notice, then his default shall be entered in the book of common rules of the said court of common pleas, or upon the docket of the said justice's court, and thereupon a writ of inquiry and inquisition may issue to the sheriff of said county, to be executed, or the amount of such claim shall be assessed by the said justices court, as the case may be; and judgment shall be entered upon the same, and execution shall issue for the enforcement of the said claim so adjudicated and established, in the same manner as in cases upon judgments in such courts in actions of assumpsit. Claim when forfeited, &c.

§ 7. On the appearance of both parties in pursuance of the above requirements, issue shall be joined upon the claims made and notices of set off served, and the same may be noticed for trial and put upon the calendar of said court by either party, and shall be governed, tried, and the judgment therein enforced, in all respects in the same manner as upon issues joined and judgments rendered in actions of assumpsit in the said court. Issue when joined.

§ 8. Costs shall be allowed upon the same principles and by the same rules, in such proceedings, as they are now allowed by statute in an action of assumpsit, and shall form a part of the judgment recovered in the same. Costs.

§ 9. Such owner or his agent may at any time give public notice in the same manner as notice is required to be given for the sale of real estate by virtue of a writ of fieri facias, to all persons having claims under any of the provisions of this act against any such building or appurtenances, at the time of the date of said notice, to present the same with vouchers in Owner or agent may give public notice.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands" therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands" in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppe and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppe in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppe, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

poses of the said company, or in said damages according to the best of their judgment and ability, shall proceed to view the lands to be appraised, and to ascertain the damages; and after hearing the proof and allegation of the parties, they, or any three of them, agreeing, shall make up and sign their award of the damages aforesaid, and shall acknowledge the same before some officer authorized to take the acknowledgment of deeds, and cause the same to be filed in the office of the clerk of the county in which the damages accrue or the land appraised is situated.

Provision in
case of in-
fancy, &c.

§ 7. If any person interested in lands or damages to be appraised by virtue of this act shall be incapable of acting as a party by reason of infancy, coverture or other legal disability, and there shall be no one duly authorized by law to act instead of such persons, the said appraisers, on being applied to for that purpose by the said company, are authorized and required to appoint, by an order in writing, to be made and signed by them, some responsible freeholder, as special guardian, who shall thereby be empowered to appear for, and take care of the interests of, the person, so incapacitated, in the proceedings in reference to which such appointment shall be made, and any special guardian, being appointed as aforesaid, shall, before entering upon his duties as such guardian, execute a bond with one sufficient surety, to be approved by the said appraisers, in such penalty as they shall direct, to the person for whom he is appointed guardian, conditioned for the faithful discharge of the trust reposed in him, which bond shall be filed in the office of the clerk of the county where the lands to be appraised are situated.

Rights of the
guardian.

§ 8. In all cases of the appraisal of land authorized by this act, or of damages, and in every proceeding in relation thereto in which the appointment of a special guardian for any person shall be necessary, and such appointment shall have been made in accordance with the provisions of the last preceding section, the guardian so appointed shall be regarded and treated in all respects as a party representing the interest of the person or persons owning or interested in the land or damages to be appraised; and the said proceedings in such case shall be as effectual and conclusive upon the person or persons represented by special guardian as aforesaid as the same would be upon a party competent to act for himself.

Appraisers
may adjourn
and call wit-
nesses.

§ 9. Whenever the supervisor and commissioners of highways of any town shall have met together to make an appraisal of damages in pursuance of this act, and shall have organized by taking and subscribing the oath in such case required, they shall have authority to adjourn their meeting from time to time as they may deem proper, and to issue subpoenas requiring the attendance of necessary witnesses to

appear before them ; and each of the said officers is authorized to administer the proper oath or affirmation to such witnesses as may be examined before them, and to take any affidavit relating to the proceedings in any appraisal of damages which they may be called upon to make. And it shall be the duty of the said appraisers to keep minutes of their proceedings in making an appraisal, and to deposit the same, together with their award of damages, and all papers used before them relating thereto, in the office of the clerk of the county where the land appraised shall be situated or the damages awarded. The said appraisers shall each be entitled to three dollars a day for their services while attending to the duties required of them by this act, to be paid by the said company.

§ 10. Either party feeling aggrieved by an appraisal of land or damages made in pursuance of this act, is authorized to appeal therefrom within thirty days from the time of being notified of such appraisal, to the vice-chancellor of the circuit in which the same is made, by a notice in writing to that effect, to be served upon the opposite party ; and such vice-chancellor is authorized to hear such appeal, and the proofs and allegations of the parties in relation thereto, and on such hearing to confirm the said appraisal, or to alter the same in such manner and to such an extent as he shall deem reasonable and just. Right of appeal.

§ 11. All provisions of law imposing penalties or punishments for injuries to the track of the said railroad, or for placing any obstruction thereon, or for any other act done thereto, shall apply and are hereby made applicable to the track of the said railroad as changed and sanctioned, or to be changed under and by virtue of this act. But nothing in this act contained shall be construed to affect in any manner, any claim to damages which may have been, or may be occasioned to the mill-race commonly called Brown race, in the city of Rochester, by the erection or continuance of the railroad bridge over the Genesee river, and said race. Penalties.

§ 12. The said company, upon being thereto required by the Post-Master-General of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for the compensation provided by an act of congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3d, 1845 ; and if the said company shall neglect or refuse to enter into such contract within twenty days after being so required, it shall forfeit and pay to the Contracts for carrying mails of the U. States.

people of this state, fifty dollars for every day it shall so neglect or refuse.

Right to re-
peal.

§ 13. This act shall take effect immediately, and the legislature may at any time alter or repeal the same.

CHAP. 180.

AN ACT to amend the act entitled "*An act to incorporate the Cayuga and Susquehanna Railroad Company*," passed April 18, 1843.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

New track
may be con-
structed.

§ 1. The Cayuga and Susquehanna Railroad Company are hereby authorized to construct a single or double track railroad from any point on their present road, within ten miles of the village of Ithaca, upon such route as the directors shall deem most practicable and for the public convenience, to any other point on their said road, or to the navigable waters of the Cayuga lake, at some place within the county of Tompkins ; and for the purpose of acquiring and taking possession of the necessary land upon which to construct such road, the said corporation shall possess and enjoy all the powers and privileges which are granted to, and made in favor of the corporation created by the act of the Legislature of this State, entitled "*An act to provide for the construction of a railroad from Attica to Buffalo*," passed May 3d, 1836, except as hereinafter provided.

Application
to Vice-Chan-
cellor.

§ 2 Any application to be made to a vice-chancellor under this act, shall be made to a vice-chancellor of the circuit in which the land proposed to be taken shall be situated, and all notices and meetings required by the act above referred to, shall be published and held in the county through which the said road, or some part thereof hereby authorized, is to be made.

Capital stock
may be in-
creased.

§ 3. For the purpose of constructing the railroad hereby authorized, and of making any alteration or improvement in the construction of its present road, which by law it is authorized to make, the said Cayuga and Susquehanna Railroad Company is hereby authorized and empowered to increase its capital stock to such amount as the directors thereof shall from time to time determine to be necessary, not exceeding in the whole the sum of five hundred thousand dollars.

Amount to
be fixed.

§ 4. The amount of such increase of stock shall be fixed by the directors by resolution, whereupon the new stock hereby authorized to be created, or any part thereof, may be issu-

ed and disposed of in such manner as the directors shall deem expedient.

§ 5. The shares of the capital stock of the Cayuga and Susquehanna Railroad Company may, by a resolution of the directors thereof, to be entered on their minutes, be enlarged to the sum of sixty dollars each, and after such enlargement, each stockholder in choosing directors, shall be entitled to one vote for every share of stock held by him for thirty days immediately previous to such election; and the said directors, upon the request of any person holding stock in said company, issued previous to the enlargement of any such shares under the authority of this act, shall issue to such person certificates or other evidence of stock, at such enlarged valuation, in exchange for the stock then held by such person, at the rate of fifteen dollars for each share; provided that this act shall work no forfeiture of stock issued previous to any such enlargement, for the non-payment of the additional amount, and that after such enlargement no stockholder shall be entitled to vote for the choice of directors upon less than one whole share of such enlarged stock. Shares may be enlarged.

§ 6. In the construction and management of the railroad authorized by this act, the said Cayuga and Susquehanna Railroad Company may exercise all the powers, and shall be subject to all the provisions and restrictions contained in the act hereby amended, which are not inconsistent with the provisions of this act. General powers.

§ 7. The Cayuga and Susquehanna Railroad Company, after the construction of the railroad authorized by this act, may, by resolution of the directors thereof, to be entered on their minutes, relinquish and abandon the whole or any portion of its present road, from the northern termination thereof to the southern termination of the railroad authorized by this act. Present road may be abandoned.

§ 8. The Legislature may at any time alter, modify or repeal this act. Right to repeal.

CHAP. 181.

AN ACT to amend the charter of the Canandaigua and Corning Railroad Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The fourth section of the act entitled "An Act to provide for the construction of a railroad from the village of Canandaigua, in the county of Ontario, to the village of Distribution of stock and election of directors.

Corning, in the county of Steuben," passed May 14, 1845, shall be and is hereby so amended as to authorize and allow the said company, so soon as eight hundred thousand dollars of their capital stock shall be subscribed, and ten dollars on each one hundred dollars so subscribed actually paid in, to have a distribution of the shares among the subscribers, and the several shareholders may proceed to elect directors, and otherwise organize as provided in the said fourth section, in the same manner as they might have done under the provisions of the section hereby amended, if the whole amount of one million six hundred thousand dollars, as therein provided, had been subscribed. And after such organization, under the subscription of eight hundred thousand dollars, the company may proceed to construct their road or railway, conforming in all other respects to the provisions of the act hereby amended; but the said road shall be built with an iron rail, weighing not less than fifty-six pounds to the yard.

§ 2. This act shall take effect immediately.

CHAP. 182.

AN ACT to authorize the recording of wills of real estate and of exemplifications of judgment records and decrees in partition suits, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Wills may be
recorded by
county
clerks.

§ 1. Any will of real estate which shall have been duly proved in the supreme court, or court of chancery, or before the surrogate of any county in this state, with the proofs taken, on the proof thereof, and the certificate of proof annexed thereto or endorsed thereon, may be recorded in the clerk's office of any county in this state, in the same manner that conveyances of real estate are now authorized to be recorded. Any exemplification of the record of any such will from the office of the clerk of the supreme court, register, assistant register, or clerk in chancery, or surrogate, where the same may be recorded, or from any other office where the same hereafter by law be recorded, may in like manner be recorded in the clerk's office of any county. The record of such will or exemplification so made as aforesaid, and the exemplifications of such record shall be received in evidence, and shall be as effectual in all cases as the original will would be if produced and proved, and may in like manner be repelled by contrary proof.

§ 2. An exemplification of any judgment record or decree in partition, may in like manner be recorded in the clerk's office of any county of this state in which any lands described therein may be situated. Such record or an exemplification thereof shall be received in evidence, and shall be as effectual in all cases as the original exemplification would be if produced, and shall be open to the same objections. Exemplification of judgment record or decree may be recorded.

§ 3. On recording any such will or exemplification the clerk shall index the same in the indices of deeds, substantially as such clerks are now required to index deeds recorded in their respective offices. Index.

§ 4. Such clerks shall receive for such recording the same fees which shall be from time to time allowed them for the recording of conveyances of real estate; and any executor of a will or administrator with the will annexed who shall procure such will to be recorded in the clerk's office of any county in which the lands devised thereby may be situated, shall be allowed the fees paid by him for such recording in the settlement of his accounts. Fees.

§ 5. This act shall take effect immediately.

CHAP. 183.

AN ACT *requiring the land agent in the fifteenth township of the town of Norwich, Chenango county, to give bond for the faithful discharge of his duty.*

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Every land agent hereafter elected for the fifteenth township in the town of Norwich, county of Chenango, shall, before he enters upon the duties of his office, execute an instrument in writing with two sureties to be approved by the supervisor of the said town of Norwich, conditioned in the penalty of three thousand dollars, that he will faithfully discharge the duties of his office, and that he will pay over on demand, to his successor in office, all monies and obligations for money received by him in virtue of his office, which shall not have been expended or disposed of according to law, and file the said instrument in writing in the office of the town clerk of the said town of Norwich. Agent to give bond.

§ 2. This act shall take effect immediately.

CHAP. 184.

AN ACT for the better security of mechanics and others erecting buildings and furnishing materials therefor, in the county of Richmond.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Contractors, laborers, &c. to have a lien on building.

§ 1. Any person who shall, hereafter, by virtue of any contract with the owner thereof, or his agent, or any person who in pursuance of an agreement with any such contractor, shall, in conformity with the terms of the said contract, perform any labor or furnish materials in building, altering or repairing any house or other building, or appurtenances to any house or other building, in the county of Richmond, shall have a lien for the value of such labor and materials, upon such house or building and appurtenances, and upon the lot of land on which the same stand, to the extent of the right, title and interest at that time existing, of such owner, in the manner and to the extent hereinafter provided ; but such owner shall not be obliged to pay for, or on account of such house, other building or appurtenances, in consideration of all the liens authorized by this act to be created, any greater sum or amount than the price stipulated and agreed to be paid therefor in and by such contract.

Written contract evidence of materials furnished or labor performed.

§ 2. Any person furnishing such materials or performing such labor in pursuance of a written contract with such owner or his agent, shall produce such contract, or the best evidence thereof in his possession, the validity of which shall be established in evidence before the court in which he may bring his suit to recover the value of his lien, and shall recover no more than the price stipulated to be paid to him in such contract.

Other evidence to be produced.

§ 3. Any person performing such labor or furnishing such materials without a written contract with such owner or his agent, shall produce evidence as mentioned in the preceding section, to establish the value of such labor or materials, and that the same were used by the said owner or his agent or the original contractor, in the erection, alteration or repairing of such building.

Lien how enforced and brought to a close.

§ 4. Any contractor or laborer, or any person furnishing materials in pursuance of any contract made by such contractor with such owner, or his said agent therefor, may, after such labor has been performed, or materials furnished, enforce or bring to a close such lien, by serving or causing a notice to be served personally on such owner or his agent, contractor or laborer, or person furnishing materials, requir-

ing him to appear in the court of common pleas of the county or in a justice's court of the town in which such building is situated, either in person or by attorney, at a time certain, on some day to be specified in such notice, not less than twenty days from the service thereof, and submit to an accounting and settlement in such court, of the amount due, or claimed to be due for the labor thus performed, or the materials thus furnished.

§ 5. At the time, or within fifteen days after the service of such notice, a bill of particulars of the amount claimed to be due shall be served personally on such owner, and also a bill of particulars of any offset which may be claimed to the same shall be served in like manner upon the laborer, contractor or person furnishing materials, as the case may be. Bill of particulars to be served on owner.

§ 6. In case such contractor, laborer or person furnishing materials, shall not appear and produce his claim, as specified in sections four and five, he shall forever lose the benefit and be precluded of his said lien; and in case such owner shall not appear in pursuance of the requirements of the said sections, at the time and place specified in such notice, then his default shall be entered in the book of common rules of the said court of common pleas, or upon the docket of the said justice's court, and thereupon a writ of inquiry and inquisition may issue to the sheriff of said county, to be executed, or the amount of such claim shall be assessed by the said justices court, as the case may be; and judgment shall be entered upon the same, and execution shall issue for the enforcement of the said claim so adjudicated and established, in the same manner as in cases upon judgments in such courts in actions of assumpsit. Claim when forfeited, &c.

§ 7. On the appearance of both parties in pursuance of the above requirements, issue shall be joined upon the claims made and notices of set off served, and the same may be noticed for trial and put upon the calendar of said court by either party, and shall be governed, tried, and the judgment therein enforced, in all respects in the same manner as upon issues joined and judgments rendered in actions of assumpsit in the said court. Issue when joined.

§ 8. Costs shall be allowed upon the same principles and by the same rules, in such proceedings, as they are now allowed by statute in an action of assumpsit, and shall form a part of the judgment recovered in the same. Costs.

§ 9. Such owner or his agent may at any time give public notice in the same manner as notice is required to be given for the sale of real estate by virtue of a writ of fieri facias, to all persons having claims under any of the provisions of this act against any such building or appurtenances, at the time of the date of said notice, to present the same with vouchers in Owner or agent may give public notice.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands " therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands " in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a " Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepfel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the " Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepfel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroepfel and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate, the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroepfel in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroepfel, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Canal Commissioner to determine the portion to be paid by state.

Money to be raised by tax

duties and authority of the commissioners of loans of the county of Livingston over said mortgages shall be the same in all respects as if said mortgages had been originally given in the said county of Livingston.

Saving
clause.

§ 5. The passage of this act shall not be construed so as to interfere in any manner with any crime or misdemeanor, committed before the passage of this act, in the towns hereby annexed to the county of Livingston or in the prosecution thereof, or with any civil action already commenced, or which shall be commenced before this act takes effect, in any court of law or equity.

Paupers.

§ 6. All paupers belonging to or transported from the territory hereby annexed to the poor house of the county of Allegany, shall be a charge upon the county of Livingston from the first day of November last, until they shall be removed according to the provisions of this act.

Accounts
how audited.

§ 7. The accounts of town officers residing in the territory now embraced in the town of Genesee-Falls, in the county of Wyoming, for services, and which accrued after the second Tuesday of November 1845, shall be audited and paid by the board of town officers of the said town of Genesee-Falls, and by the board of supervisors of the county of Wyoming, in the same manner that other town accounts are audited and paid.

Duty of superintendent
of the poor.

§ 8. The superintendents of the poor of the county of Livingston may give at least ten days' notice to the superintendents of the poor of the county of Allegany, that they intend to remove said paupers from said poor house, and at the expiration of said notice, they may remove the said paupers, and all expenses incurred for the support of the same shall be audited and raised by the board of supervisors of the county of Livingston, and paid over to the treasurer of the county of Allegany, at their next annual meeting.

Tenure of
office.

§ 9. All persons appointed to office residing on the territory hereby annexed, shall hold and exercise the duties of his or their office during the term of the same, notwithstanding this act.

CHAP. 198.

AN ACT to amend the charter of the city of Rochester.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

ARTICLE FIRST.

Non-resi-
dents lands
to be assessed.

§ 1. The common council of the city of Rochester, in addition to their present powers, are authorized to assess the

lands of non-residents of said city, for the expense of cleaning and repairing streets and side walks and removing nuisances; and the said expense shall be assessed in the same manner, and the amount so assessed shall be collected in the same manner, and the same proceedings shall be had in case of the non-payment of the same, as in relation to the assessments for public improvements in said city.

§ 2. So much of section eight, of title four, of the act hereby amended, as provides for the publication of all laws and ordinances, passed by the said common council, and all votes and resolutions directing the payment of money is hereby repealed. But all ordinances by which any penalty may be imposed for a violation of the same, shall be published for one week, and all votes and resolutions directing the payment of money, shall be published at least once, in a daily newspaper printed in said city, of which the first publication shall be within eight days after the passage of such vote, ordinance or resolution. Repeal.
Except in certain cases

§ 3. In all proceedings by the common council, for the making of any public improvement, a brief and general description of the portion of the city deemed to be benefitted thereby, and proper to be assessed therefor, and also of the lands deemed necessary therefor, in case such improvement shall require the taking of the lands of any person, shall be deemed sufficient; and so much of sections six and seven, of title seven, of the act hereby amended, as requires any other or different description than herein provided, is hereby repealed. Brief description of land to be taken to be made.

§ 4. The police justice of said city shall have the same jurisdiction in suits brought for a violation of any of the city ordinances, or of the laws concerning the internal police of the state, as is now conferred upon any of the justices of the peace of said city. Police justice

§ 5. The common council may appoint two assistant engineers of the fire department of said city, in addition to the number now authorized. Assistant engineers.

§ 6. Section twelve of title eight of the act hereby amended, shall be so amended, that any person who shall have served as a fireman in the manner in said section provided, for the term of seven years, after he shall have arrived at the age of twenty-one years, shall be entitled to the exemption in the said section provided. Firemen when exempted.

§ 7. The public squares and parks of the said city shall not be liable to be assessed for the ordinary city or county taxes. Public squares and parks.

§ 8. Section seventeen, of title five, of the act hereby amended, is hereby amended by striking out all after the Part repealed.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York / and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeal.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act, are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz: Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

Rates of toll.

§ 8. Whenever any five continuous miles of said road shall be completed, it shall be lawful for the board of directors of said company to cause a toll gate to be erected, and a toll gatherer to be appointed, and so on for each continuous five miles of said road; but no such gate shall be erected within three miles of the court-house in the city of Buffalo, and not exceeding three toll gates shall be erected, and a sufficient number of toll gatherers appointed on said road; at which gate or gates said company may demand and receive toll not exceeding the following rates, to wit: For every vehicle, sled, sleigh or carriage of any description, drawn by one animal, three cents; if drawn by more than one animal, for every such additional animal, three cents; for every horse and rider or led horse, two cents; for every score of cattle, six cents; for every score of sheep or swine, three cents; and so in proportion for a greater or less number of cattle, sheep or swine.

To be collected.

§ 9. The toll gatherers, at each and any gate when erected on said road in pursuance of this act, may detain and prevent from passing such gate, any carriage or animal subject to toll, until the toll thereon is paid.

Penalty.

§ 10. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of the provisions of this act, or forcibly or fraudulently pass any such gate without having paid the legal toll, or to avoid the payment of the legal toll, or shall with his team, carriage or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, in addition to the damages resulting from his wrongful act, to be sued for in an action of debt, and a separate suit for such damages may also be sustained by said corporation.

Damages.

§ 11. Any person who shall drag along or across said road any log, wood or timber, so that said log, wood or timber, comes in contact with said road where made of timber or plank, shall be subject to pay all damages, to be sued for and collected as aforesaid, for the use of said company. No load exceeding five thousand pounds on any waggon shall be carried on said road without the consent of the directors, under penalty of five dollars.

Time limited

§ 12. Unless twenty-five thousand dollars of the capital stock of said company shall be subscribed for and paid in or secured, within three years from the passage of this act, the same shall be null and void.

Affairs how managed.

§ 13. The concerns of such company shall be managed by the directors, and no person shall be eligible to the office of

director, unless he shall own, at the time of his election, at least four shares of the stock of said company.

§ 14. The corporation hereby created shall exist and be continued for and during the term of twenty-one years. Duration of act.

§ 15. No person, living within one mile of any toll gate, shall be charged any toll while going to or returning from any grist-mill or church, or religious meeting, for passing through such gate. Exemption.

§ 16. The provisions of article second, title first, of the eighteenth chapter of the first part of the Revised Statutes, relating to the purchase of land necessary for the purpose of said road, its value, and the appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act. Lands how purchased.

§ 17. The commissioners who shall locate the said road, shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the said county of Erie, and of the clerks of the several towns in which any part of such road shall be located. Survey and description to be made and filed.

§ 18. Cushing Swift, William C. Russell and Daniel D. Stiles, are hereby appointed commissioners to locate said road on the route mentioned in the fifth section of this act; in case either of them shall neglect or refuse to act, the first judge of the county of Erie shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation such sum as its directors may deem just. Commissioners to locate road.

§ 19. The said corporation may use for the construction of their said road the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of all the commissioners of highways of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways therefor; such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town; if such consent shall be refused, the said corporation may use any such road, on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders to be appointed by one of the judges of Erie county in the manner prescribed in article second of the first title of chapter eighteen of the first part of the Revised Statutes, and to proceed as directed in said article. Highways when to be used.

§ 20. The legislature may at any time modify or repeal this act. Right to repeal.

§ 21. This act shall take effect immediately.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever loose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands" therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands" in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepfel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepfel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroepfel and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroepfel in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroepfel, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commissioners to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Superintendent
to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed.

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all monies collected by him and his deputies as shall be required by the comptroller. ^{Superintendent to give bond.}

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place. ^{Office of superintendent at Montezuma abolished}

§ 8. All laws inconsistent with this act are hereby repealed. ^{Repeal.}

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeal.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act; are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz: Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

Rates of toll.

§ 8. Whenever any five continuous miles of said road shall be completed, it shall be lawful for the board of directors of said company to cause a toll gate to be erected, and a toll gatherer to be appointed, and so on for each continuous five miles of said road ; but no such gate shall be erected within three miles of the court-house in the city of Buffalo, and not exceeding three toll gates shall be erected, and a sufficient number of toll gatherers appointed on said road ; at which gate or gates said company may demand and receive toll not exceeding the following rates, to wit : For every vehicle, sled, sleigh or carriage of any description, drawn by one animal, three cents ; if drawn by more than one animal, for every such additional animal, three cents ; for every horse and rider or led horse, two cents ; for every score of cattle, six cents ; for every score of sheep or swine, three cents ; and so in proportion for a greater or less number of cattle, sheep or swine.

To be collected.

§ 9. The toll gatherers, at each and any gate when erected on said road in pursuance of this act, may detain and prevent from passing such gate, any carriage or animal subject to toll, until the toll thereon is paid.

Penalty.

§ 10. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of the provisions of this act, or forcibly or fraudulently pass any such gate without having paid the legal toll, or to avoid the payment of the legal toll, or shall with his team, carriage or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, in addition to the damages resulting from his wrongful act, to be sued for in an action of debt, and a separate suit for such damages may also be sustained by said corporation.

Damages.

§ 11. Any person who shall drag along or across said road any log, wood or timber, so that said log, wood or timber, comes in contact with said road where made of timber or plank, shall be subject to pay all damages, to be sued for and collected as aforesaid, for the use of said company. No load exceeding five thousand pounds on any waggon shall be carried on said road without the consent of the directors, under penalty of five dollars.

Time limited

§ 12. Unless twenty-five thousand dollars of the capital stock of said company shall be subscribed for and paid in or secured, within three years from the passage of this act, the same shall be null and void.

Affairs how managed.

§ 13. The concerns of such company shall be managed by the directors, and no person shall be eligible to the office of

director, unless he shall own, at the time of his election, at least four shares of the stock of said company.

§ 14. The corporation hereby created shall exist and be continued for and during the term of twenty-one years. Duration of act.

§ 15. No person, living within one mile of any toll gate, shall be charged any toll while going to or returning from any grist-mill or church, or religious meeting, for passing through such gate. Exemption.

§ 16. The provisions of article second, title first, of the eighteenth chapter of the first part of the Revised Statutes, relating to the purchase of land necessary for the purpose of said road, its value, and the appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act. Lands how purchased.

§ 17. The commissioners who shall locate the said road, shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the said county of Erie, and of the clerks of the several towns in which any part of such road shall be located. Survey and description to be made and filed.

§ 18. Cushing Swift, William C. Russell and Daniel D. Stiles, are hereby appointed commissioners to locate said road on the route mentioned in the fifth section of this act; in case either of them shall neglect or refuse to act, the first judge of the county of Erie shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation such sum as its directors may deem just. Commissioners to locate road.

§ 19. The said corporation may use for the construction of their said road the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of all the commissioners of highways of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways therefor; such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town; if such consent shall be refused, the said corporation may use any such road, on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders to be appointed by one of the judges of Erie county in the manner prescribed in article second of the first title of chapter eighteen of the first part of the Revised Statutes, and to proceed as directed in said article. Highways when to be used.

§ 20. The legislature may at any time modify or repeal this act. Right to repeal.

§ 21. This act shall take effect immediately.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

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public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands" therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands" in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepfel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepfel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppeel and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppeel in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppeel, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commission-
ers to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Superintend-
ent to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed.

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all monies collected by him and his deputies as shall be required by the comptroller. <sup>Superintendent
not to give
bond.</sup>

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place. <sup>Office of superintendent
at Montezuma
abolished</sup>

§ 8. All laws inconsistent with this act are hereby repealed. ^{Repeal.}

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York / and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeal.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act, are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each ; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors ; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width ; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz : Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

Rates of toll.

§ 8. Whenever any five continuous miles of said road shall be completed, it shall be lawful for the board of directors of said company to cause a toll gate to be erected, and a toll gatherer to be appointed, and so on for each continuous five miles of said road ; but no such gate shall be erected within three miles of the court-house in the city of Buffalo, and not exceeding three toll gates shall be erected, and a sufficient number of toll gatherers appointed on said road ; at which gate or gates said company may demand and receive toll not exceeding the following rates, to wit : For every vehicle, sled, sleigh or carriage of any description, drawn by one animal, three cents ; if drawn by more than one animal, for every such additional animal, three cents ; for every horse and rider or led horse, two cents ; for every score of cattle, six cents ; for every score of sheep or swine, three cents ; and so in proportion for a greater or less number of cattle, sheep or swine.

To be collected.

§ 9. The toll gatherers, at each and any gate when erected on said road in pursuance of this act, may detain and prevent from passing such gate, any carriage or animal subject to toll, until the toll thereon is paid.

Penalty.

§ 10. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of the provisions of this act, or forcibly or fraudulently pass any such gate without having paid the legal toll, or to avoid the payment of the legal toll, or shall with his team, carriage or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, in addition to the damages resulting from his wrongful act, to be sued for in an action of debt, and a separate suit for such damages may also be sustained by said corporation.

Damages.

§ 11. Any person who shall drag along or across said road any log, wood or timber, so that said log, wood or timber, comes in contact with said road where made of timber or plank, shall be subject to pay all damages, to be sued for and collected as aforesaid, for the use of said company. No load exceeding five thousand pounds on any waggon shall be carried on said road without the consent of the directors, under penalty of five dollars.

Time limited

§ 12. Unless twenty-five thousand dollars of the capital stock of said company shall be subscribed for and paid in or secured, within three years from the passage of this act, the same shall be null and void.

Affairs how managed.

§ 13. The concerns of such company shall be managed by the directors, and no person shall be eligible to the office of

director, unless he shall own, at the time of his election, at least four shares of the stock of said company.

§ 14. The corporation hereby created shall exist and be continued for and during the term of twenty-one years. Duration of act.

§ 15. No person, living within one mile of any toll gate, shall be charged any toll while going to or returning from any grist-mill or church, or religious meeting, for passing through such gate. Exemption.

§ 16. The provisions of article second, title first, of the eighteenth chapter of the first part of the Revised Statutes, relating to the purchase of land necessary for the purpose of said road, its value, and the appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act. Lands how purchased.

§ 17. The commissioners who shall locate the said road, shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the said county of Erie, and of the clerks of the several towns in which any part of such road shall be located. Survey and description to be made and filed.

§ 18. Cushing Swift, William C. Russell and Daniel D. Stiles, are hereby appointed commissioners to locate said road on the route mentioned in the fifth section of this act; in case either of them shall neglect or refuse to act, the first judge of the county of Erie shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation such sum as its directors may deem just. Commissioners to locate road.

§ 19. The said corporation may use for the construction of their said road the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of all the commissioners of highways of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways therefor; such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town; if such consent shall be refused, the said corporation may use any such road, on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders to be appointed by one of the judges of Erie county in the manner prescribed in article second of the first title of chapter eighteen of the first part of the Revised Statutes, and to proceed as directed in said article. Highways when to be used.

§ 20. The legislature may at any time modify or repeal this act. Right to repeal.

§ 21. This act shall take effect immediately.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands" therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands" in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepfel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepfel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppeel and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppeel in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppeel, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commission-
ers to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Superintend-
ent to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed. ^{Salaries.}

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all monies collected by him and his deputies as shall be required by the comptroller. ^{Superintendent to give bond.}

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place. ^{Office of superintendent at Montezuma abolished}

§ 8. All laws inconsistent with this act are hereby repealed. ^{Repeal.}

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeal.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act, are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each ; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors ; and the persons the chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width ; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz : Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

Rates of toll.

§ 8. Whenever any five continuous miles of said road shall be completed, it shall be lawful for the board of directors of said company to cause a toll gate to be erected, and a toll gatherer to be appointed, and so on for each continuous five miles of said road ; but no such gate shall be erected within three miles of the court-house in the city of Buffalo, and not exceeding three toll gates shall be erected, and a sufficient number of toll gatherers appointed on said road ; at which gate or gates said company may demand and receive toll not exceeding the following rates, to wit : For every vehicle, sled, sleigh or carriage of any description, drawn by one animal, three cents ; if drawn by more than one animal, for every such additional animal, three cents ; for every horse and rider or led horse, two cents ; for every score of cattle, six cents ; for every score of sheep or swine, three cents ; and so in proportion for a greater or less number of cattle, sheep or swine.

To be collected.

§ 9. The toll gatherers, at each and any gate when erected on said road in pursuance of this act, may detain and prevent from passing such gate, any carriage or animal subject to toll, until the toll thereon is paid.

Penalty.

§ 10. Any person who shall wilfully break or throw down any gate on such road, which may have been erected in pursuance of the provisions of this act, or forcibly or fraudulently pass any such gate without having paid the legal toll, or to avoid the payment of the legal toll, or shall with his team, carriage or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for each offence, forfeit a sum not exceeding ten dollars, to and for the use of said company, in addition to the damages resulting from his wrongful act, to be sued for in an action of debt, and a separate suit for such damages may also be sustained by said corporation.

Damages.

§ 11. Any person who shall drag along or across said road any log, wood or timber, so that said log, wood or timber, comes in contact with said road where made of timber or plank, shall be subject to pay all damages, to be sued for and collected as aforesaid, for the use of said company. No load exceeding five thousand pounds on any waggon shall be carried on said road without the consent of the directors, under penalty of five dollars.

Time limited

§ 12. Unless twenty-five thousand dollars of the capital stock of said company shall be subscribed for and paid in or secured, within three years from the passage of this act, the same shall be null and void.

Affairs how managed.

§ 13. The concerns of such company shall be managed by the directors, and no person shall be eligible to the office of

director, unless he shall own, at the time of his election, at least four shares of the stock of said company.

§ 14. The corporation hereby created shall exist and be continued for and during the term of twenty-one years. Duration of act.

§ 15. No person, living within one mile of any toll gate, shall be charged any toll while going to or returning from any grist-mill or church, or religious meeting, for passing through such gate. Exemption.

§ 16. The provisions of article second, title first, of the eighteenth chapter of the first part of the Revised Statutes, relating to the purchase of land necessary for the purpose of said road, its value, and the appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act. Lands how purchased.

§ 17. The commissioners who shall locate the said road, shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the said county of Erie, and of the clerks of the several towns in which any part of such road shall be located. Survey and description to be made and filed.

§ 18. Cushing Swift, William C. Russell and Daniel D. Stiles, are hereby appointed commissioners to locate said road on the route mentioned in the fifth section of this act; in case either of them shall neglect or refuse to act, the first judge of the county of Erie shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation such sum as its directors may deem just. Commissioners to locate road.

§ 19. The said corporation may use for the construction of their said road the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of all the commissioners of highways of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways therefor; such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town; if such consent shall be refused, the said corporation may use any such road, on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders to be appointed by one of the judges of Erie county in the manner prescribed in article second of the first title of chapter eighteen of the first part of the Revised Statutes, and to proceed as directed in said article. Highways when to be used.

§ 20. The legislature may at any time modify or repeal this act. Right to repeal.

§ 21. This act shall take effect immediately.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands " therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of " Trustee of Public Lands " in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepfel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepfel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppe and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppe in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppe, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commission-
ers to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Superintend-
ent to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed. ^{Salaries.}

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all monies collected by him and his deputies as shall be required by the comptroller. ^{Superintendent to give bond.}

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place. ^{Office of superintendent at Montezuma abolished}

§ 8. All laws inconsistent with this act are hereby repealed. ^{Repeal.}

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York / and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeat.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended,

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act; are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz: Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

CHAP. 184.

AN ACT for the better security of mechanics and others erecting buildings and furnishing materials therefor, in the county of Richmond.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Contractors, laborers, &c. to have a lien on building.

§ 1. Any person who shall, hereafter, by virtue of any contract with the owner thereof, or his agent, or any person who in pursuance of an agreement with any such contractor, shall, in conformity with the terms of the said contract, perform any labor or furnish materials in building, altering or repairing any house or other building, or appurtenances to any house or other building, in the county of Richmond, shall have a lien for the value of such labor and materials, upon such house or building and appurtenances, and upon the lot of land on which the same stand, to the extent of the right, title and interest at that time existing, of such owner, in the manner and to the extent hereinafter provided ; but such owner shall not be obliged to pay for, or on account of such house, other building or appurtenances, in consideration of all the liens authorized by this act to be created, any greater sum or amount than the price stipulated and agreed to be paid therefor in and by such contract.

Written contract evidence of materials furnished or labor performed.

§ 2. Any person furnishing such materials or performing such labor in pursuance of a written contract with such owner or his agent, shall produce such contract, or the best evidence thereof in his possession, the validity of which shall be established in evidence before the court in which he may bring his suit to recover the value of his lien, and shall recover no more than the price stipulated to be paid to him in such contract.

Other evidence to be produced.

§ 3. Any person performing such labor or furnishing such materials without a written contract with such owner or his agent, shall produce evidence as mentioned in the preceding section, to establish the value of such labor or materials, and that the same were used by the said owner or his agent or the original contractor, in the erection, alteration or repairing of such building.

Lien how enforced and brought to a close.

§ 4. Any contractor or laborer, or any person furnishing materials in pursuance of any contract made by such contractor with such owner, or his said agent therefor, may, after such labor has been performed, or materials furnished, enforce or bring to a close such lien, by serving or causing a notice to be served personally on such owner or his agent, contractor or laborer, or person furnishing materials, requir-

ing him to appear in the court of common pleas of the county or in a justice's court of the town in which such building is situated, either in person or by attorney, at a time certain, on some day to be specified in such notice, not less than twenty days from the service thereof, and submit to an accounting and settlement in such court, of the amount due, or claimed to be due for the labor thus performed, or the materials thus furnished.

§ 5. At the time, or within fifteen days after the service of such notice, a bill of particulars of the amount claimed to be due shall be served personally on such owner, and also a bill of particulars of any offset which may be claimed to the same shall be served in like manner upon the laborer, contractor or person furnishing materials, as the case may be. Bill of particulars to be served on owner.

§ 6. In case such contractor, laborer or person furnishing materials, shall not appear and produce his claim, as specified in sections four and five, he shall forever lose the benefit and be precluded of his said lien; and in case such owner shall not appear in pursuance of the requirements of the said sections, at the time and place specified in such notice, then his default shall be entered in the book of common rules of the said court of common pleas, or upon the docket of the said justice's court, and thereupon a writ of inquiry and inquisition may issue to the sheriff of said county, to be executed, or the amount of such claim shall be assessed by the said justices court, as the case may be; and judgment shall be entered upon the same, and execution shall issue for the enforcement of the said claim so adjudicated and established, in the same manner as in cases upon judgments in such courts in actions of assumpsit. Claim when forfeited, &c.

§ 7. On the appearance of both parties in pursuance of the above requirements, issue shall be joined upon the claims made and notices of set off served, and the same may be noticed for trial and put upon the calendar of said court by either party, and shall be governed, tried, and the judgment therein enforced, in all respects in the same manner as upon issues joined and judgments rendered in actions of assumpsit in the said court. Issue when joined.

§ 8. Costs shall be allowed upon the same principles and by the same rules, in such proceedings, as they are now allowed by statute in an action of assumpsit, and shall form a part of the judgment recovered in the same. Costs.

§ 9. Such owner or his agent may at any time give public notice in the same manner as notice is required to be given for the sale of real estate by virtue of a writ of fieri facias, to all persons having claims under any of the provisions of this act against any such building or appurtenances, at the time of the date of said notice, to present the same with vouchers in Owner or agent may give public notice.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever lose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town ; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the " Trustees of Public Lands " therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5. All vacancies in the office of " Trustee of Public Lands " in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroepel in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phœnix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phœnix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroepel and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phœnix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppe and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppe in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppe, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commissioners to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Superintendent to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed.

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all ^{Superintendent to give bond.} monies collected by him and his deputies as shall be required by the comptroller.

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place. ^{Office of superintendent at Montezuma abolished}

§ 8. All laws inconsistent with this act are hereby ^{Repeal.} repealed.

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York / and Kings / excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeat.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act; are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz: Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

CHAP. 223.

AN ACT for the benefit of *The New-York Guardian Insurance Company in the city of New-York.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1 It shall be lawful for the New-York Guardian Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

Provision in case of refusal or neglect to pay

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed May¹² 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it, the amount of unsatisfied debt or claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least

† So in the original. [It should be February.]

twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller: And immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of stock to be filed.

§ 5. This act shall take effect immediately.

CHAP. 224.

AN ACT for the benefit of the Jefferson Insurance Company in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the Jefferson Insurance Company in the city of New-York, the capital of which has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Calls may be made on stockholders

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for the fractional parts of shares, and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Provision in case of refusal or neglect to pay.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of

Sections of the act of Feb. 12, 1836 to apply.

support thereof, to any justice of the peace in the town wherein such building is situate on or before a certain hour and day to be specified in said notice, and to be at least six weeks from the first publication thereof. And in case of the failure of such persons to present their claims as required by said notice, each and every such person so failing shall forever loose the benefit and be precluded of his said lien.

Set off may
be presented
against a
claim.

§ 10. Whenever such owner or his agent shall be proceeded against by a contractor pursuant to the provisions of the second section of this act, it shall be lawful for him to give the notice prescribed in the ninth section hereof, and present as a set off all claims and liens thereupon presented and established; and the magistrate or court before whom such proceedings shall be commenced shall, upon the request of such owner or his agent, grant a stay of proceedings sufficient to enable him to give such notice, and call in such claims, which claims shall thereupon be audited by such magistrate or court.

Provision in
case of neg-
lect.

§ 11. In case the said owner or his agent shall neglect to give the notice required by sections four and five, or the notice provided for by section nine, no claim or lien against such building or appurtenances shall be barred until the expiration of one year from the time of performing such labor or furnishing such material.

§ 12. This act shall take effect thirty days after its passage.

CHAP. 185.

AN ACT authorizing the election of Trustees of Public Lands in the town of Eastchester, and defining their duties.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
public lands
to be elected.

§ 1. The inhabitants of the town of Eastchester in the county of Westchester, may elect at the next annual town meeting held in said town, and annually thereafter, in the same manner as other town officers are elected, three of the legal voters of said town, who shall be a corporation, for the purposes of their office, by the name of "The Trustees of the Public Lands" in said town; and the justices of the peace of said town of Eastchester are hereby authorized to appoint three of the legal voters of said town to the office of Trustees of Public Lands in said town, who shall hold their offices until the next annual town meeting to be held therein, with

the same force and effect as if said officers had been elected at the last annual town meeting held in said town.

§ 2. Before entering upon the duties of their office, they shall execute a bond for the faithful performance of the duties of their office, to the supervisor of the town, in a penalty of at least double the annual income of the public lands held by said town, and not less than one hundred dollars, with such sureties as said supervisor of said town or the clerk of said town shall approve, which said bond shall be filed with said clerk, and kept among the records of his office. They shall give bond.

§ 3. The said trustees, besides the ordinary powers of a corporation, shall have power, and it shall be their duty : Their powers.

1. To take and hold possession of the public lands of their town ;

2. To occupy and improve such public lands in such manner and for such lawful purposes as the inhabitants of said town in town meeting assembled may order and direct, or in the absence of such directions, so to occupy and improve.

3. To lease the same for such time not exceeding two years, and upon such conditions as said inhabitants in such meeting may direct, or in the absence of such directions, as they may deem expedient.

4. To apply the proceeds, rents and profits of such lands, and the interest and moneys derived therefrom to such lawful purposes and in such manner as said inhabitants so assembled in town meeting may direct.

5. To render a just and true account of the proceeds, rents and profits, or income from or on account of such lands and moneys arising therefrom, and of all appropriations and expenditures on account thereof, by items, on the last Tuesday next preceding the annual town meeting in said town in each year, to the board of auditors of other town accounts.

6. To deliver over to their successors in office all moneys, books, papers, securities and vouchers relating or in anywise appertaining to the same, which may be in their hands or under their control, as soon as such successors or a majority thereof shall be qualified to enter upon the duties of their office ; and

7. To take a receipt therefor, which said receipt shall specify particularly what is delivered over, and shall be filed in the office of the clerk of said town.

§ 4. The board of auditors in said town, shall annually report the state of the accounts of the "Trustees of Public Lands" therein, to the inhabitants thereof at their annual town meeting. Auditors to report.

§ 5 All vacancies in the office of "Trustee of Public Lands" in said town arising from a failure to elect, death, re- Vacancies.

moval, or other cause, shall be filled in the same manner as vacancies in other town offices; and any of said trustees may resign their office in the same manner as other town officers.

§ 6. This act shall take effect immediately.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office abolished.

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished ; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

§ 2. This act shall take effect immediately.

CHAP. 187.

AN ACT to provide for the building of a "Free Bridge" across the Oswego river, and Oswego canal, between the town of Schroeppe! in Oswego county, and the town of Lysander, in the county of Onondaga.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Commissioners to build bridge.

§ 1. William Conger of Phoenix, Oswego county, Chauncey B. Wall of Lysander, Onondaga county, and Silas Titus of Salina, in the county of Onondaga, are hereby appointed a board of commissioners to superintend the construction of a free bridge over the Oswego river and Oswego canal at the village of Phoenix, at the locality now occupied by the "Wall and Peck" bridge, at an expense which shall not exceed four thousand dollars.

Auditors.

§ 2. The boards of town auditors of the towns of Schroeppe! and Lysander, are hereby appointed a board of auditors, to audit the accounts of the said commissioners, for the expense of constructing said bridge ; and for that purpose, they shall, as soon as practicable, after the cost of said bridge is ascertained, meet at some place in the village of Phoenix, (to be designated by said commissioners giving notice to said

boards) and ascertain the amount expended or necessary to be expended in the construction of said bridge, and shall reduce their determination to writing, and within three days thereafter shall file the same in the offices of the town clerks of the towns of Schroeppe and Lysander.

§ 3. As soon as the amount so expended shall have been ascertained in the manner provided for in the last above section, it shall be the duty of the acting canal commissioner having in charge the Oswego canal, to determine what portion of the said amount of expense ought to be defrayed by the state, and to file a certificate of his determination in each of the town clerks' offices aforesaid, one copy with the clerks of the boards of supervisors of the counties of Oswego and Onondaga, and another copy thereof shall be transmitted by him to the comptroller of this state: and on receiving the said certificate. the comptroller is hereby authorized and required to pay to the order of the said commissioners named in the first section of this act, the amount so specified, out of any moneys belonging to the canal fund not otherwise appropriated.

Canal Commissioner to determine the portion to be paid by state.

§ 4. The boards of supervisors of the counties of Oswego and Onondaga, are hereby authorized and required, respectively to levy by tax, upon the freeholding inhabitants and taxable property of the said counties, in the same manner as other contingent charges of said counties are levied and taxed the amount of the cost of said bridge, after deducting the amount to be paid by the state, as follows, to wit: The board of supervisors of Onondaga county, shall assess and order to be collected, one quarter of the amount upon the town of Lysander, and one quarter upon the remaining towns in the county of Onondaga, unless the said board of supervisors of the county of Onondaga shall otherwise direct; and in such case, the said board of supervisors may in their discretion apportion and assess the same upon the said town of Lysander and the other towns of the county in such proportions as they may think just; and the board of supervisors of Oswego county shall assess and order to be collected, one-half of the amount upon the town of Schroeppe in said county, unless the said board shall, at their next annual meeting, by resolution, assume a part of such expense, in which case the sum so assumed shall be deducted from the amount to be assessed upon the town of Schroeppe, and shall be assessed upon the county of Oswego; one half of the above amounts to be levied and assessed upon the said counties and towns, in the year eighteen hundred and forty-six, and the remaining half in the year eighteen hundred and forty-seven. The amount so levied, when collected, shall be paid over to the respective county treasurers of Onondaga and

Money to be raised by tax

Oswego counties; and to be paid by said treasurers, upon the order of said commissioners, to the person presenting such order, within thirty days after the receipt of said money from the collectors.

Building
commission-
ers to give
bond.

§ 5. Before receiving any moneys under this act, the commissioners shall jointly execute a bond with good and sufficient sureties, to be approved by the supervisors of the towns of Lysander and Schroepfel, in the penal sum of eight thousand dollars, conditioned for the faithful performance of their duties, and for the proper application of all moneys which shall be received by them for the purposes contemplated in this act. A duplicate copy of said bond shall be executed by said commissioners, one copy of which shall be filed with the treasurer of the county of Onondaga, and the other with the treasurer of the county of Oswego.

To account.

§ 6. It shall be the duty of said commissioners to account to the said boards of supervisors for all moneys received by them under this act, at the annual meetings of said boards in the year eighteen hundred and forty-seven.

Their pay.

§ 7. The commissioners shall each receive one dollar for each day when actually and necessarily employed in the construction of said bridge, to be audited by the supervisors and town clerks of the towns of Lysander and Schroepfel, and to be assessed equally upon said towns, in the manner provided for collecting other town expenses.

Repeal.

§ 8. The act entitled "An act authorizing John Wall to erect a toll bridge across the Oswego river," passed April 20, 1830, and revived and amended according to an act passed April 17, 1835, is hereby repealed.

§ 9. This act shall take effect immediately.

CHAP. 188.

AN ACT abolishing the office of inspector of the Onondaga Salt Springs, and for other purposes.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Superintend-
ent to act as
inspector.

§ 1. All the duties now required to be performed by the inspector of the salt springs, in the county of Onondaga, shall hereafter be performed by the superintendent of the Onondaga Salt Springs.

Office of in-
spector abo-
lished.

§ 2. The office of inspector of salt in the county of Onondaga is hereby abolished.

Deputies to
be appointed

§ 3. The superintendent of the Onondaga Salt Springs shall appoint deputies to perform the duties now performed

by the deputy inspectors at the villages of Syracuse, Salina, Liverpool and Geddes; but no greater number shall be appointed than have heretofore been employed.

§ 4. The superintendent shall be entitled to a salary of ^{Salaries.} eight hundred dollars a year for his services, to be deducted monthly from the public monies received by him; his principal deputy at each of the villages of Syracuse, Salina, Liverpool and Geddes, shall be entitled to the sum of four hundred and fifty dollars annually for their services, to be paid in like manner.

§ 5. The principal deputy inspectors to be appointed under this act at Syracuse, Salina, Liverpool and Geddes, shall each be allowed the sum of four hundred and fifty dollars annually for their services, to be paid to them monthly by the superintendent; and sections forty-one and sixty-nine of title ten, of chapter nine, of part first of the Revised Statutes, are hereby repealed.

§ 6. The superintendent shall execute such bond for the faithful performance of his duties, and for the payment of all monies collected by him and his deputies as shall be required by the comptroller. ^{Superintendent to give bond.}

§ 7. The office of superintendent of Salt Springs, at Montezuma, is hereby abolished. ^{Office of superintendent at Montezuma abolished} The superintendent of the Onondaga Salt Springs, shall appoint a deputy to reside at Montezuma, who shall discharge all the duties which have heretofore been performed by the superintendent of the Salt Springs at Montezuma, and which deputy shall make returns monthly to the superintendent of the Onondaga Salt Springs, in pursuance of directions to be given by said superintendent, of the amount of all the salt inspected by him for the preceding month, the amount of duties accrued and collected, the particulars and amount of all the disbursements made by him, with the vouchers therefor, and shall pay to the said superintendent, once in every three months, the balance of money received for duties in his hands. And the said superintendent shall add to his return to be made to the comptroller a full account of the salt business at Montezuma, with the vouchers for the payments made at that place. The salary of said deputy shall be one hundred and fifty dollars, and shall be paid by said superintendent as the salary of the deputies at Onondaga are paid. But in no event shall his salary exceed the amount received for duties at that place.

§ 8. All laws inconsistent with this act are hereby repealed. ^{Repeal.}

§ 9. This act shall take effect immediately.

CHAP. 189.

AN ACT in relation to the fees of county treasurers.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Pay of county treasurers to be fixed.

§ 1. The several county treasurers of this state, shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent for receiving, and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum.

New-York / and Kings excepted.

§ 2. This act shall not extend to, or in any way apply to the city and county of New-York, nor to the county of Kings.

Repeal.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 190.

AN ACT to amend and revive an act entitled "*An act to incorporate the Elmira and Williamsport Railroad Company,*" passed April 21st, 1832.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Time extended.

§ 1. The Elmira and Williamsport Railroad Company shall have two years after the passage of this act, to commence the railroad in the act above referred to, and shall have five years thereafter to construct, finish and put the same in operation, and shall possess all the rights, powers and authority as are in and by said act provided and contained, except the stockholders shall not possess the power and authority to vote by proxy ; and except, further, the assessment of damages to the persons injured by said road, shall be by a jury, in the same manner as is provided in and by the act incorporating the Attica and Buffalo Railroad Company.

§ 2. The legislature may at any time alter, or repeal this act.

CHAP. 191.

AN ACT to incorporate the Aurora and Buffalo Plank Road Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, in pursuance of this act; are hereby constituted a body corporate, by the name of the Aurora and Buffalo Plank Road Company. Corporation created.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to the restrictions and liabilities prescribed in the eighteenth chapter, of the first part of the Revised Statutes, except in the cases where this act shall otherwise provide. General powers.

§ 3. The capital stock of the said corporation shall be fifty thousand dollars, to be divided into shares of twenty-five dollars each; shall be deemed personal property, and shall be assignable and transferrable in such manner as shall be prescribed in and by the by-laws of such corporation. Capital stock

§ 4. Whenever twenty-five thousand dollars of the capital stock of said company shall be subscribed, it shall be the duty of the commissioners named in the eighth section of this act, to call a meeting of the stockholders at some convenient place either at Aurora or Buffalo, for the purpose of choosing seven directors; and the persons chosen shall be the first directors of said company, and shall hold their office for one year, or until others are appointed in their stead. Meeting to choose directors.

§ 5. The said corporation is hereby empowered to construct, and during its existence maintain a road from and commencing at the corner of lots numbers fifteen, sixteen, twenty-three and twenty-four, in the town of Aurora, and following the usual route of travel as nearly as practicable, and terminate at the city line of Buffalo on Seneca-street. Route of road.

§ 6. The track of said road shall be constructed of timber and plank, so that the same shall form a smooth and even surface at least twenty-two feet in width; the particular manner of building said road, to be determined by the directors of said corporation. Track how to be constructed.

§ 7. The following persons shall be commissioners to open books and receive subscriptions for the capital stock of said corporation, or donations therefor, viz: Robert Person, Aaron Riley, Erastus Wallace, Joseph G. Masten and Horace Clark. Subscriptions to stock.

CHAP. 236.

AN ACT for the relief of Ebenezer Murdock.

Passed May 12, 1846.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*Money to be
paid to E.
Murdock.

§ 1. The treasurer shall pay, on the warrant of the comptroller, to Ebenezer Murdock, or his legal representatives, three hundred and thirty-seven dollars and forty-eight cents, being the balance due, in full, to said Murdock, on a bond held by the state against Nathaniel Leonard, and heretofore purchased by said Murdock, at auction, and omitted in the act entitled "An act for the relief of Ebenezer Murdock," passed January 28, 1837.

§ 2. This act shall take effect immediately.

CHAP. 237.

AN ACT in relation to the appointment of inspectors of hops, fish and oil.

Passed May 12, 1846.

*The People of the State of New-York represented in Senate and Assembly, do enact as follows :*How to be
appointed.

§ 1. Inspectors of hops, of fish and of oil, shall hereafter be nominated by the governor, and appointed by him, with the consent of the senate.

§ 2. This act shall take effect immediately.

CHAP. 238.

AN ACT for the relief of Betsey Ludovick, an Indian woman.

Passed May 12, 1846.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*Money to be
paid to E.
Ludovick.

§ 1. The treasurer is hereby authorized to pay on the warrant of the comptroller, the sum of one hundred and ninety dollars and seventy-five cents, with interest thereon from May first, eighteen hundred and thirty-four, to the date of this act, to Elizabeth, alias Betsey, Ludovick, an Indian woman, of the Orchard party of the Oneida Indians, who now resides at Duck creek, near Green Bay, Wisconsin Territory, in full satisfaction of all claims of said Elizabeth alias Betsey Ludo-

vick on the state for indemnity for her lands and improvements sold by virtue of the act passed February 11th, 1829, entitled "An act relating to the purchase of lands from the first Christian and Orchard parties of the Oneida Indians."

§ 2. This act shall take effect immediately.

CHAP. 239.

AN ACT *authorizing the towns of Martinsburgh and Greig to construct a bridge across the Black river.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of highways of the towns of Martinsburgh and Greig, in the county of Lewis, are authorized to build a bridge across the Black river at or near Tiffany's landing, in said towns. But no such bridge shall be erected unless the same shall be so constructed as not to interfere with the navigation of said river with steamboats. Bridge to be built.

§ 2. The supervisors of the county of Lewis are authorized to cause to be levied and collected in the manner now prescribed by law for the collection of taxes, four hundred dollars in the said town of Greig, and three hundred dollars in the said town of Martinsburgh, to build said bridge. Money to be raised by tax.

CHAP. 240.

AN ACT *in addition to an act entitled "An act relating to documentary evidence," passed May 14, 1845.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. A copy of any act, proceeding, record, document, roll, warrant, order, or other paper or writing, now or hereafter remaining in any of the departments of the government of the United States, may, when certified by the head or acting chief officer at the time being of such department to have been compared by him with the original, and to be a correct transcript therefrom, and of the whole of such original, and attested by the seal of his department, be given in evidence in all courts of this state, with the like effect as the original. Copies of documents may be certified and read in evidence.

§ 2. This act and the act hereby amended shall not, nor shall either of them, prevent the proof of such record, act, Sewing clause.

CHAP. 192.

AN ACT to change the name of the Bethel Baptist Church in Williamsburgh.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Name.

§ 1. From and after the passing of this act, the name of the Bethel Baptist Church in Williamsburgh shall be changed to, and known by the corporate name or title of "The First Baptist Church in Williamsburgh."

§ 2. This act shall take effect immediately.

CHAP. 193.

AN ACT to incorporate the "University of Buffalo."

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. All persons who shall become stockholders pursuant to this act shall be, and they are hereby constituted a body corporate by the name of "The University of Buffalo," for the purpose of promoting literature and science by establishing and maintaining a university to be located in the city of Buffalo.

Capital stock

§ 2. The capital stock of said corporation shall not exceed one hundred thousand dollars, and be divided into shares of twenty dollars each, and Albert H. Tracy, Millard Fillmore, Joseph G. Masten, Thomas M. Foote, Isaac Sherman, Nathan K. Hall, Gaius B. Rich, Ira A. Blossom, James S. Wadsworth, William A. Bird, George W. Clinton, George R. Babcock, George C. White, Aaron D. Patchin and James Hollister, or some of them, shall, within thirty days after the passage of this act, open a book for subscriptions to the said capital stock, and shall and may receive subscriptions thereto, from time to time, until the election of the council of such university; after the election of the council, such council or any member or officer thereof to be designated or appointed by them; may continue to receive subscriptions to such capital stock. Two dollars on each share of stock subscribed shall be paid at the time of subscribing. The stockholders shall, in person, or by proxy, be entitled to one vote for each share of stock held by them, in the election of the members of the council of such university as provided for in this act.

§ 3. As soon as the sum of twenty thousand dollars of the said capital stock shall have been subscribed, it shall be the duty of the persons named in the second section of this act, or a majority of them, to give at least ten days' notice of the time and place, when and where the stockholders of said corporation will meet to elect sixteen of the stockholders of said corporation, to constitute the council of such university. Such notice shall be given by publishing the same in two of the public newspapers printed and published in the said city of Buffalo. The persons named in the second section of this act shall be inspectors of such election; shall certify the result, and shall, immediately after such election, divide the members of the council, by lot, into four classes of four each; the first of which classes shall hold their offices for one year, the second for two years, the third for three years, and the fourth for four years, and until others shall be elected in their stead. An election shall be held by the shareholders on the first Wednesday of July in each year, to supply the places of the class whose offices then expire, and all other vacancies occurring the preceding year. In case the shareholders shall neglect to make such annual election, the council may supply all vacancies remaining in the board. The persons so appointed shall hold their offices as if chosen by the shareholders, and the council may also fill its own vacancies occurring previous to an annual election. No one religious sect shall ever have a majority of the board.

§ 4. In addition to the members of the council authorized to be elected by the last section, each of the several faculties of said university shall appoint one member of such council, who shall hold his office during the pleasure of the faculty appointing him; and the mayor and recorder of the city of Buffalo, for the time being, shall be ex-officio members of such council.

§ 5. The estate, affairs and business of the said corporation shall be controlled and managed by the said council. Such council shall have power to appoint its own officers, and all the officers of the university and corporation; and any professor or officer appointed by such council may be removed by an affirmative vote of a majority of all the members of such council. The council shall also have power to establish ordinances and by-laws not contravening the laws or constitution of this state or the United States, and to expel any members of such university for a violation thereof.

§ 6. Persons of every religious denomination shall be equally eligible to all offices and appointments.

§ 7. Thirteen members shall be a quorum of the council for the transaction of business, but no real estate shall be conveyed, nor appointments to office made, except to supply

vacancies in the council, other than by an affirmative vote of a majority of all the members of such council.

Diplomas
may be
granted.

§ 8. The university may grant to students under its charge diplomas or honorary testimonials, in such form, as it may designate. It may confer such literary honors, degrees and diplomas as are usually granted by any university, college or seminary of learning in the United States; and it may also, on the nomination of the medical faculty, and with the written consent of at least three of the curators, authorized to be appointed by this act, grant diplomas conferring the degree of doctor of medicine, subject however to the restrictions and limitations mentioned in this act. The graduation and diploma fees paid by medical students shall not be paid or belong to the medical faculty of said university, but shall go into the general fund of the university, so that the medical faculty shall receive no pecuniary benefits from an increase of the number graduated.

Medical de-
partment.

§ 9. The council, whenever they shall organize the medical department of such university, shall appoint not less than twenty persons, being practising physicians and surgeons, to be curators of the medical department of said university, and the president of the medical society of the county of Erie, and the censors of the state medical society appointed for the senatorial district in which said university shall be situated shall be ex-officio curators thereof.

Departments
may be or-
ganized sepa-
rately.

§ 10. The council may separately organize any or either of the departments of the university whenever they shall think it expedient. Donations or subscriptions to the capital stock of such corporation, may be made for the use or benefit of either the academical, theological, medical or law department of such university, or for furnishing a library for such university, or either of such departments; and when so expressly made shall be appropriated to the use of such department or library.

Degree of
doctor of me-
dicine when
to be con-
ferred.

§ 11. The provisions of the twenty-first section, of title seven, chapter fourteen, of the first part of the Revised Statutes, shall not be deemed to apply to the diplomas conferring the degree of doctor of medicine, granted by the council of such university upon the recommendation of the medical faculty established therein, and written consent of at least three of the curators thereof, and of at least two of the persons who shall be curators ex officio under the ninth section of this act; but no person shall receive such diploma unless he shall have pursued the study of medical science for at least three years after he attained the age of sixteen years, with some physician and surgeon, duly authorized by law to practice his profession; and shall also after that age have attended two complete courses of all the lectures delivered

in some incorporated medical college, the last of which courses shall have been delivered by the medical faculty of said university; and all the provisions of said title seven, which require an attendance upon the lectures delivered at an incorporated medical college, shall be deemed to apply to and include the lectures delivered by the medical faculty of the university established by this act; and the diplomas granted pursuant to this act shall have the force and effect as licenses to practice physic and surgery, as are given by law to the licenses granted by any incorporated medical society in this state.

§ 12. The university hereby established shall be subject to the visitation of the regents of the university of this state, in the same manner, and to the same extent as the various colleges in this state; and the diplomas granted by such university shall entitle the possessors to the immunities and privileges allowed by usage or statute to the possessors of like diplomas from any college or seminary of learning in this state. No such diploma shall be conferred by the university, but in conformity with the laws of this state in force at the time of conferring the same.

University
subject to
visitation of
regents.

§ 13. The medical faculty of the university hereby incorporated are authorized to appoint a delegate to represent them in the State Medical Society, with all the powers and privileges which delegates from the respective medical colleges of this state possess.

Delegate to
state medical
society.

§ 14. The corporation hereby created shall possess the powers and be subject to the provisions of the third title, of the eighteenth chapter, of the first part of the Revised Statutes, so far as the same are applicable and have not been repealed.

General
powers.

§ 15. The legislature may at any time alter, repeal or modify this act; and if the sum of twenty thousand dollars of the capital stock of the corporation hereby created shall not be subscribed within three years after the passage of this act, this act shall be of no further effect, and shall be deemed repealed and abrogated.

Right to re-
peal.

§ 16. This act shall take effect immediately.

CHAP. 194.

AN ACT to incorporate the Junction Canal Company.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Subscrip-
tions to stock

§ 1. For the purpose of constructing a canal from the termination of the Chemung canal at Elmira, in the county of Chemung, in the state of New-York, through the valley of the Tioga river to the line of the state of Pennsylvania, at or near Athens, in the county of Bradford in said state, to connect with the North Branch canal, at or near said point, it shall be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars, in shares of one hundred dollars each, under the management and superintendence of the persons in this section named, who shall be commissioners for that purpose, at such time and place in the city of New-York as shall be designated by a majority of them, that is to say, Jonathan I. Codding, Zebedee Cook, and G. Winthrop Gray, of the city of New-York, William Maxwell and Samuel Partridge of the town of Elmira, and Erastus Crandall of Veteran, in the county of Chemung, and William S. De Zeng of the town of Seneca, in the county of Ontario; the said books shall be opened at such time as the above named commissioners may think most suitable, of which they shall give at least fifteen days' notice, by advertisement inserted in at least two newspapers printed in the city of New-York, and one newspaper printed within the counties of Chemung and Ontario; and they shall continue open for the space of ten days: and if, at the expiration of that time, the whole number of shares aforesaid, or any part thereof, shall not have been subscribed, then it shall be lawful for the commissioners above named, to adjourn from time to time, and place to place, until the whole number of shares shall be subscribed, of which adjournment they shall give such public notice as the occasion may require, provided that every person offering to subscribe to the said stock, shall previously pay to the attending commissioners the sum of one dollar for every share by him subscribed, out of which shall be defrayed the expenses attending the taking of such subscriptions, and other incidental expenses; and the remainder shall be paid by the said commissioners to the treasurer of the corporation hereby created, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

§ 2. Whenever four thousand shares shall have been subscribed as aforesaid, the persons so subscribing, and those who may thereafter subscribe, to the stock of the company hereby incorporated, shall be, and they are hereby made and constituted a body politic and corporate, for and during the term of fifty years, by the name, style and title of "The president, directors and company of the Junction Canal Company," and the corporation hereby created shall possess all the several powers and privileges conferred on corporations by title third, chapter eighteen, of the first part of the Revised Statutes, and shall also be capable of taking and holding their capital stock, and the increase and profits thereof; and shall be capable also, of purchasing, taking and holding to them, their successors and assigns, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estate real and personal, as shall be necessary to them in the prosecution of their works; and generally, shall have power to do and execute all and singular the acts, matters and things, which to the said corporation it may appertain to do, under the regulations, restrictions, limitations and provisions herein prescribed and declared.

§ 3. The management of the concerns of the said corporation, shall be entrusted to seven directors, who shall be stockholders, and the commissioners named in the first section of this act, or a majority of those of them who may attend to the receiving of subscriptions, shall designate the time and place of holding the election for the first board of directors, and give reasonable notice thereof; and the said commissioners, or a majority of them, as aforesaid, shall be inspectors of said election, and shall certify under their hands, the names of those duly elected, and shall deliver over to them the subscription books; and the directors so elected, shall hold their office for one year after their election, as aforesaid, or until others shall be elected in their places; and that at the first, and all subsequent elections for directors of said company, each share shall entitle the holder to one vote; provided, however, that no transfer of stock shall entitle any person to vote, unless such transfer of stock shall have been entered upon the books of the corporation, at least three days previous to the election at which the vote is offered.

§ 4. All elections for directors after the first, shall be held annually, at such times and places, and under such regulations as shall be prescribed by the by-laws of the corporation; and the board of directors shall give fifteen days' notice of each and every election by advertisement, in at least two of the newspapers of the city of New-York, and one in the county of Chemung, and one in the county of Ontario; and all elections shall be by ballot, by the stockholders, either

CHAP. 248.

AN ACT to alter the commissioners' map of the city of Brooklyn, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Parts of sundry streets and avenues discontinued and closed.

§ 1. That so much and such parts of Wolcott street, Sullivan street and King street, lying between the westerly line of Conover street and the water line, as said streets and water line are laid down on the map of the city of Brooklyn, made by the commissioners appointed "To lay out streets, avenues and squares in the city of Brooklyn," and so much and such parts of William street, Tremont street, Ewer street, Delavan street, Commerce street, Seabring street, Bowne street, Rapelye street, Summit street, and River street, lying between the westerly line of Van Brunt street and the water line, as said streets and water line are laid down on the said map; and so much and such parts of Ferris street, lying between the northerly line of Dikeman street and the southerly line of Harrison street; and so much and such parts of Conover street lying between the northerly line of William street and the southerly line of Hamilton avenue; and so much and such parts of West street, or Hale street, lying between the northerly line of Hamilton avenue and the southerly line of Harrison street, as said streets and avenue are laid down on said map; and also so much and such parts of Coles street, Cooper street, Rapelye street, Woodhull street and Summit street, between Henry street and Smith street; and also so much of said Cooper street from the westerly line of Henry street to the easterly line of Columbia street; and also all parts of streets on said map easterly from the Fifth avenue between Twenty-seventh and Thirty-fifth streets inclusive; also all that part of Thirty-sixth street easterly from the Seventh avenue; also that part of Sixth avenue between the cemetery line and the westerly side of Thirty-fifth street; also that part of Seventh avenue between the cemetery line and the northerly side of Thirty-sixth street; also that part of the Eighth avenue between the cemetery line and the northerly side of Thirty-seventh street; also that part of the Ninth avenue south of the cemetery line; also Hammond avenue, as designated and laid down on said map, except that part lying between Second avenue and Greenwood cemetery; and so much of a certain street laid down on said map called Bedford road, as lies between Myrtle avenue and Clinton avenue; are hereby declared to be discontinued and closed;

and the owner or owners of the lands adjoining and fronting upon said streets, or of any part thereof, and their heirs and assigns, may sell, convey, build upon, or otherwise improve and use the lands forming said streets to the middle of said streets respectively, in the same manner and with the like effect as if the same had never been laid down and designated upon the said map as public streets.

Owners of adjoining lands may improve or sell said streets.

§ 2. It shall and may be lawful for the mayor and common council of the city of Brooklyn, and they are hereby fully authorized and empowered, to take and use for the uses and purposes of a public street, all such lands as may be necessary for continuing Van Brunt street from Hamilton avenue northerly to Harrison street, sixty feet in width, parallel to Columbia street, and distant therefrom five hundred and sixty-five feet; and to widen said Van Brunt street ten feet on each side thereof from the southerly line of Hamilton avenue to Gowanus bay, so that the same shall be seventy feet in width throughout.

Land may be taken to continue Van Brunt street.

§ 3. It shall be lawful for the mayor and common council of the city of Brooklyn, and they are hereby fully authorized and empowered, to take and appropriate to and for the uses and purposes of public streets, four pieces or parcels of land of the width of fifty feet each, extending from the easterly side or line of Henry street to the westerly side or line of Smith street, on lines parallel with Luqueer street, as said Luqueer street is laid down on the said map, to be called "First Place," "Second Place," "Third Place," and "Fourth Place." The northerly side or line of First place shall begin at a point on the easterly side or line of Henry street, distant two hundred and thirty-three feet five inches and one-fourth of an inch southerly from the southerly side or line of Carroll street, as said Carroll street is laid down on the said map. The northerly side or line of Second place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of First place. The northerly side or line of Third place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of Second place. The northerly side or line of Fourth place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of Third place. The carriage way of each of said places shall be twenty-four feet wide, and the side walks thirteen feet wide. The buildings to be erected upon the lots front-

Lands may be taken to form First, Second, Third and Fourth Places.

Lands may
be purchased

§ 9. Said corporation may purchase and hold any lands real estate and water privileges necessary for constructing, maintaining and repairing said canal and the works connected therewith as aforesaid, and may also receive, hold and take all voluntary grants and donations of real estate and water privileges which shall be made to them, to aid the objects of said corporation; and whenever, the said corporation shall become possessed of and own any lands, real estate and water privileges, which it may be unnecessary for them to retain, for the purposes aforesaid, it shall be lawful for them to lease, occupy, alien and convey the same by lease or deed, and to sell or lease any and all surplus waters of said canal, not wanted for the commodious navigation thereof, on such terms as they shall deem expedient; and whenever the said real estate and water privileges can not be obtained by voluntary donation or purchase, by reason of disagreement between the said company and any person or persons, owning any real estate or streams of water which the said corporation may require as aforesaid, respecting the amount to be paid therefor, it shall be lawful for the parties to appoint three persons, impartially to estimate and determine the price to be paid for the same; but if the parties cannot agree upon such persons, or if either party shall refuse or neglect to join in such appointment, within twenty days after requisition for that purpose upon him or them made, and if the owner or owners of such real estate and water privileges shall be feme covert, under age, non compos mentis, or out of the state, or if a majority of the persons appointed by the parties, shall not, within thirty days after receiving notice of their appointment, file a report of their estimate in the office of the clerk of the county where the lands lie, then and in either of these cases, either party may apply to the court of common pleas of the county in which the said real estate or water privileges is or are situated, and the said court shall award a venire to the sheriff, requiring him to summon a jury of disinterested men, to ascertain and report to said court, the price to be paid by said company for said real estate or water privileges; which report being confirmed by the said court, and a reasonable sum awarded to said owner or owners for costs, and the sum so reported and awarded paid or tendered to said owner or owners by the said company, the said company shall be deemed seized in fee of the premises for the purposes aforesaid, in the same manner as if the same had been conveyed by the owner or owners to said company and their successors in fee.

Penalty.

§ 10. If any person or persons shall be injured by means of any dam or dams being erected under the provisions of

this act, or the land of any person shall be inundated, by swelling the water, by means of any dam or dams, or any mill or other water works, which may have been erected on any stream, that the corporation hereby created may use for the improvements authorized by this act, and if the directors of the said corporation cannot agree with the owner or owners thereof, as to the compensation to be paid for such injury, the same proceedings shall be had, as is provided in the preceding section of this act; and the persons or jury valuing the damages, having been first sworn or affirmed, justly and impartially to assess the same, shall take into consideration the advantages which may be derived by such owner or owners from the navigation aforesaid.

§ 11. The directors of the said corporation, by and with such superintendents, engineers, artists, workmen and laborers, with their tools, instruments, carts, waggons and other carriages, and beasts of draught and burthen, may enter upon the lands contiguous and near to the tract of the said intended canal or navigation, giving notice to the owners or occupiers of such lands, and from thence take and carry away any stone, timber, gravel, sand, earth or other material, doing as little damage thereto as possible, and repairing any breach they may make in the enclosures thereof, and making amends for any damages that may be done thereon, and paying for the materials so taken away; the amount thereof, if the parties cannot agree, shall be assessed and valued by any three disinterested freeholders, residing in the neighborhood, under oath or affirmation, to be appointed by the parties, or if they cannot agree in their appointment, then to be appointed by any disinterested justice of the peace of the township; and it shall be the duty of the said freeholders to file a report of their assessment, within seven days after they shall have agreed upon the same, with a neighboring justice of the peace, by whom the same shall be entered upon his docket; and the said freeholders shall also, within the said seven days, notify each of the parties of the name of the justice of the peace with whom their report has been filed, and either party may appeal from said report to the court of the county, at any time within thirty days after the same shall have been so filed.

§ 12. It shall and may be lawful for the directors of the said company, as soon as the said canal and navigation shall be completed, so as to allow of the passage of boats, to appoint such and so many collectors of tolls for the passage of boats and vessels in and through the same, and in such places as they shall think proper; and that it shall and may be lawful for such collectors of toll and their deputies, to demand and receive of and from the persons having charge of

any boat, ark, craft, raft or other vessel or instrument, or vehicle for transportation, passing through the said canal or navigation, such toll or rates as the said directors shall think proper by its by-laws to require at any lock or at any other convenient place: provided that the said tolls shall not, in the whole, exceed the rate of two cents and five mills per mile, for every ton weight of the ascertained burthen or capacity of any boat, ark, craft or vessel, laden with or engaged in the transportation of coal, salt or plaster.

Duty of collectors.

§ 13. The collectors of tolls duly appointed by the directors of the company may stop and detain all boats, vessels, crafts, rafts or other instrument or vehicle for transportation, using the said canal and navigation, until the owner or commander or supercargo of the same shall pay the toll so as aforesaid fixed, and if any owner, skipper or supercargo of the same shall pass by any place appointed for receiving tolls, without making payment thereof, according to the provisions of this act, and with intent to defraud the said company out of such toll, he, she or they, so offending, shall forfeit and pay for every time they shall so pass by each appointed place, to the said company the sum of forty dollars, to be sued for and recovered by action of debt, in like manner, and subject to the same rules and regulations as debts under fifty dollars may be sued for and recovered, together with the costs of suit.

Tonnage of boats.

§ 14. In order to ascertain the tonnage of boats or other instruments or vehicles for transporting, using or passing the said navigation, and to prevent disputes between the supercargoes and collectors of tolls, concerning the same, upon the request of the owner, skipper or supercargo of the same, or of the collector of said tolls, at any lock or place appointed for receiving of tolls, upon the said navigation, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the tonnage the said boat is capable of carrying, and to mark the tonnage so ascertained, in figures, upon the head and stern of the said boat, instrument or vehicle, in colors mixed with oil or other durable matter; and the said boat or vessel so measured and marked, shall be permitted to pass through the said canal and navigation for the price to which the number of tons of the vessel and cargo, by her said marks, shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo of any boat shall decline choosing a person to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the directors of the corporation, or chosen by the said collector of tolls; and the tolls shall be paid according to such measurement, before any

such boat shall be permitted to pass the place where such toll is made payable.

§ 15. If any person shall wilfully and knowingly do any act or thing whereby the navigation shall be impeded, or any dam, lock, gate, canal, engine, machine, property or device whatsoever, thereunto belonging, shall be injured or damaged, he, she or they, so offending, shall forfeit and pay to the said corporation, four times the amount of damages by them sustained, together with costs, to be recovered by action of debt, before a justice of the peace, or in any court of competent jurisdiction. Damages to be paid.

§ 16. It shall be the duty of the master or commander of any boat, ark, raft, vessel or instrument or vehicle for transportation, passing through said navigation, when he shall arrive within one-fourth of a mile from any lock erected in said navigation, to blow a trumpet or horn, whereupon the keeper of such lock shall attend for the purpose of opening the gate or sluice, to let the said boat, ark, raft or other vessel pass without unnecessary delay, and in safety; and if when said canal is in navigable order, any boat, ark, raft or other vessel shall be prevented from passing up or down any of said locks or sluices, by reason of the lock not being raised or opened for more than thirty minutes, on any day except Sunday, the said corporation shall, on conviction thereof, before any justice of the peace of the proper county, forfeit and pay to the person so hindered; the sum of one dollar for every thirty minutes beyond the said time that he shall be so prevented, and in the same proportion for any longer or shorter time; and the service of any civil process upon the toll gatherer in the proper county where the offence shall have been committed, shall be held as good, and as available in law, as if served upon the president of the said corporation. Trumpet or horn to be blown.

§ 17. Whenever any sluice or canal made by the company hereby incorporated, shall cross any public or private laid out road or highway, or shall divide the grounds of any person or persons into two parts, so as to require a bridge to cross the same, the said company shall cause a bridge fit for the passage of waggons and carts, to be built, and forever thereafter to be maintained and kept in repair, at all and every place or places where the same is so required, at the cost and charges of the said company; but nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge, across any sluice or canal, at his own expense, when the same shall pass through his ground, provided that such foot or other bridges so to be erected by the owners of such land, shall not interfere with any sluice or lock, or other works of the said company. Bridges to be erected.

Accounts to
be kept by
directors.

§ 18. The directors of the said company shall keep fair and just accounts of all monies received by them from the commissioners named in the first section of this act, and from the subscribers to the company, on account of their several subscriptions, and the amount of the profits on the shares which may be forfeited as aforesaid, and also of all moneys by them expended in the prosecution of the said works, and shall, in every year, submit such accounts to the stockholders at their annual meeting to choose officers of the company; and the aggregate amount of such receipts and expenditures shall be ascertained, and if, upon liquidation, or when the capital stock shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said navigation, and effect the objects designed by this act, according to the true intent and meaning thereof, it shall be lawful for the said directors, with the concurrence of the stockholders, given at a stated, or at a special meeting convened for the purpose, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the moneys for shares so subscribed, in like manner and under like penalties as are hereinbefore provided for the original subscription, or shall be provided by their by-laws.

By collectors
of toll.

§ 19. The said directors shall also keep a just and true account of all the moneys received by their several and respective collectors of toll, and all other emoluments, and shall make and declare a dividend of the clear profits and income thereof, among all the stockholders not in arrear to the company, all contingent costs and charges being first deducted.

Saving
clause.

§ 20. The said company shall not, by anything in this act contained, be authorized to enter upon, or exercise any control over any private property, land or water, under the provisions of the eleventh section of this act, without the consent of the owner thereof, until ample security shall be given by such company, to be approved by the clerk of the county wherein the same is situated, to pay the damages to be assessed as aforesaid, as provided by this act.

Sluices or
chutes to be
made in
dams.

§ 21. In case the corporation hereby created shall erect or construct any dam or dams in or across the Chemung river, there shall be constructed and maintained in such dam a sluice or chute sufficient and safe for the passage of all such rafts, arks and other crafts which are common to the navigation of said river, at all times when the water in said river is of a navigable height, and such chute or sluice shall be at such point in said dam, and of such form and size, as shall be directed and approved by Samuel Adams, of Painted-Post, in the county of Steuben, Solomon A. Campbell, of the town

f Campbell, in said county of Steuben, and John Thompson of Addison, in said county, or a majority of them.

§ 22. It shall, at any time hereafter, be lawful for the legislature to alter or repeal this charter. Right to repeal.

CHAP. 195.

AN ACT to authorize the New-York and New-Haven Railroad Company, to extend their railroad from the Connecticut line to the New-York and Harlem Railroad.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Permission and authority are hereby given to the New-York und New-Haven Railroad Company, chartered by the Legislature of the State of Connecticut, at the May session thereof; in the year of our Lord one thousand eight hundred and forty-four, for the purpose of constructing a railroad from New-Haven, in Connecticut, by the way of Bridgeport, in Connecticut, to the west line of the State of Connecticut towards the city of New-York, to continue and extend their railroad from the dividing line of the States of New-York and Connecticut, by such route as shall be established by said company, through the county of Westchester, to the New-York and Harlem Railroad Company's line of road in said county, and to unite or connect with said New-York and Harlem Railroad at or near Williams bridge in said county of Westchester; and to take, transport and convey persons and property upon the same, by the power and force of steam or animals, or any mechanical power or combination of the same. The route to be so established as aforesaid, shall be located in such manner as shall be approved by three commissioners who shall be appointed by the governor, and who shall have no interest in said company or in the location of the said route; and before approving of such route, the said commissioners shall afford a reasonable oppportunity to all persons interested therein, to be heard in respect thereto; and such notice as the said commissioners shall direct, shall be given to all persons whose lands shall be required for the said route.

§ 2. The said New-York and New-Haven Railroad Company is hereby authorized and empowered, to purchase, receive and hold such real estate as may be necessary and convenient in accomplishing the objects and intentions of this act; and may, by agents, surveyors and engineers, enter upon such route, place or places as may be designated by the

Company authorized to extend their road to the N.Y. and Harlem railroad.

Real estate may be purchased.

board of directors of said company, for the purpose of making surveys, and determine the line, course, road or way whereon to construct the said railroad or ways, paying all damages to the owner or occupant thereof. And it shall be lawful for the said company to enter upon and take possession of all such necessary and convenient real estate, as shall be voluntarily granted, with or without purchase, or of which the possession of the company shall be confirmed by virtue of the proceedings hereinafter prescribed. In case any disagreement shall occur between said company and the owner or owners of any such necessary or convenient real estate as aforesaid, in regard to the price to be paid by the said company for the same, the board of directors may present their petition to the chancellor of this State, or to the vice-chancellor of the circuit wherein such land may be situated, setting forth the necessity of such lands for making their road or ways as aforesaid, the attempt and failure to purchase the same, with the name and residence of the owner or owners; and the chancellor or vice-chancellor shall direct such notice to the owner or owners of such lands as he shall deem proper, with the time and place of hearing the parties, and upon proof of due service of such notice, and upon hearing the parties or either of them, if the other after due notice shall not attend, the chancellor or vice-chancellor shall appoint three competent and disinterested freeholders of the county in which the lands are situated, to be commissioners to appraise said lands. The said commissioners shall appraise said lands, and shall award to the owners thereof what they shall deem to be the full value of the same, and assess the damages such owners may sustain by the taking of their lands, by injury to buildings, fences or lands, and in the construction of such road, without any deduction on account of any real or supposed benefit or advantage which such owners of said land may derive from the construction of such road; and shall be authorized to examine the land, to administer oaths, and hear testimony, and shall make their appraisement in writing, without delay, under their hands, with a minute and accurate description of the lands appraised, with a map thereof, and shall report the same, with the testimony taken, to the court of chancery. The chancellor or vice-chancellor shall examine the report and shall hear the parties if desired, and may increase or diminish the amount awarded if he shall be satisfied injustice has been done; upon proof to the chancellor or vice-chancellor, within thirty days after his determination of payment to the owner, or in cases where the owner shall, on a tender thereof, refuse to accept the same, or where such owner is an infant or a married woman; or an idiot or insane person, or a non-resident, of the depositing to the cre-

dit of the owner, in such bank as the chancellor or vice-chancellor shall direct, of the amount of such appraisement, and the payment by the company of all expenses attending it, to be certified by the chancellor or such vice chancellor, if not agreed upon by the parties, the said chancellor or vice-chancellor shall make a decree or order particularly describing the lands, and reciting the appraisement and the mode of making it, and all other facts necessary to a compliance with this section of this act; and when the said decree or order shall be recorded in the office of the clerk of the county in which the land is situated, whose duty it shall be to record the same, the possession of said land shall be thereby confirmed to the said company, together with any legal and equitable right and title to the same, for the purpose herein before named: In case any married woman, infant, idiot or insane person, or non-resident, who shall not appear after such notice, shall be interested in any such land, the chancellor shall appoint some competent and disinterested person to appear before the said commissioners and act for and in behalf of such married woman, infant, idiot or insane person, and non-resident. This section shall not be so construed as to deprive any individual through whose land said road may run, of the right of crossing the same at suitable and convenient places for farming or other necessary purposes; nor to authorize the said corporation to take, except by agreement with the owner thereof, any timber, stone or other materials on any lands, except that on which the said railroad or way shall be constructed: the compensation of said appraisers shall be three dollars each, for every day they shall be actually employed.

§ 3. If within two years from the passage of this act, said Time limited road shall not be commenced in said Westchester county, and twenty-five thousand dollars expended thereon, and if the same shall not be finished within three years, and put in operation, then this act shall be null and void.

§ 4. The said company is hereby authorized to construct Road may be constructed. a railroad with one or more tracks, of suitable width or dimensions, to be determined by the said company, on the course designated by the directors as aforesaid; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, and shall have power to erect station houses and other necessary buildings for the accommodation of their concerns, and also to fix, regulate and receive, the charges by them to be received for the transportation of persons or property on the said road: Provided always, that such charges for the transportation of any passenger and his ordinary baggage, shall not exceed in the aggregate, the sum of three cents per mile, on that part of road within this State.

Crossing
roads and
streams.

§ 5. Whenever it shall be necessary for the construction of their said road, to intersect or cross any stream of water, or water courses, or any road or highway, it shall be lawful for the said company to construct their road across or upon the same; but the company shall restore the stream or water course, or road or highway, thus intersected, as near as may be to its former state, so as not unnecessarily to impair its usefulness, and in respect to any road or highway, as may be satisfactory to the commissioners of highways of the town in which such road or highway may be intersected or crossed.

Fences to be
erected.

§ 6. The said company before running any cars upon the said railroad, shall erect and thereafter maintain upon the sides thereof, except where the said railroad shall intersect some public highway, a fence of such height and strength as is by law required as a division fence between the owners of adjoining lands; and shall also make and keep in repair wherever the same may be necessary upon the said railroad, suitable guards to prevent cattle from running upon the same.

Gates for
crossing road
may be
erected.

§ 7. The persons owning or occupying lands adjoining the said railroad, are hereby authorized at proper and convenient places, where they may have occasion to cross the said road, for farming and other necessary purposes, to erect suitable gates in the line of the said fence to facilitate such crossing, and to be kept in repair by the persons using the same.

Comp'y may
be sued.

§ 8. Said company shall be liable to be sued by summons in the same manner as corporations created by the laws of this State; and said summons, in case the same cannot be served on the officers of said company as now provided by law, may be served upon any agent of said company.

Iron rails.

§ 9. The road authorized to be built by this act, shall be constructed with an iron rail weighing not less than fifty-six pounds to the yard.

Right to re-
peal.

§ 10. The legislature may at any time alter or repeal this act.

CHAP. 196.

AN ACT *For the relief of Zenas Higgins.*

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Satisfaction
when to be
entered.

§ 1. Whenever the said Zenas Higgins shall produce to the attorney-general a receipt of the Treasurer of this state, shewing that he has paid into the treasury of this state, twenty-five dollars for the use of the people thereof, the said attorney-general shall cause satisfaction to be entered of record of a

certain judgment in favor of the said people, against the said Zenas Higgins, for ninety-two dollars and twenty cents, docketed in October term of the supreme court of this state, for the year eighteen hundred and thirty-six.

§ 2. This act shall take effect immediately.

CHAP. 197.

AN ACT to annex the towns of Nunda and Portage, to the county of Livingston.

Passed May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The towns of Nunda and Portage in the county of Allegany, are hereby annexed to the county of Livingston.

Nunda and Portage annexed to Livingston Co. Town officers to continue.

§ 2. All the officers of the towns of Nunda and Portage, in office when this act shall take effect, shall remain officers of their towns, with the same tenure and jurisdiction in and for the county of Livingston which they had or possessed in and for the county of Allegany before this act shall so take effect.

§ 3. The clerk of the county of Allegany shall, immediately after the passage of this act, make and transmit to the clerk of the county of Livingston, to be filed in his office, a certificate of all the town officers of the towns of Nunda and Portage, whose names are filed or kept in his office, which certificate when so filed, or a copy thereof certified by the said clerk of the county of Livingston, shall be evidence in all cases, with the like force and effect as his certificate would be, if said officers had been elected or chosen in their respective towns, in the county of Livingston after the passage of this act.

Duty of clerk of Allegany county.

§ 4. The commissioners of loans of the county of Livingston shall have access to the books and minutes of the commissioners of loans of the county of Allegany, and shall, within three months after the passage of this act, transcribe and enter, or cause to be transcribed and entered in a book or books, all mortgages and minutes contained in the first mentioned books, so far as the same shall relate to, and the lands mortgaged may be situated in, the towns hereby annexed to the said county of Livingston, at the cost and expense of the said county of Livingston, to be audited and paid by the board of supervisors of the said county of Livingston ; and the said mortgages and minutes when so transcribed, shall have all the force and validity, as if originally entered in the book or books in which they shall be transcribed as aforesaid, and the

Commissioners of loans of Livingston county to transcribe mortgages, &c.

duties and authority of the commissioners of loans of the county of Livingston over said mortgages shall be the same in all respects as if said mortgages had been originally given in the said county of Livingston.

Saving
clause.

§ 5. The passage of this act shall not be construed so as to interfere in any manner with any crime or misdemeanor, committed before the passage of this act, in the towns hereby annexed to the county of Livingston or in the prosecution thereof, or with any civil action already commenced, or which shall be commenced before this act takes effect, in any court of law or equity.

Paupers.

§ 6. All paupers belonging to or transported from the territory hereby annexed to the poor house of the county of Allegany, shall be a charge upon the county of Livingston from the first day of November last, until they shall be removed according to the provisions of this act.

Accounts
how audited.

§ 7. The accounts of town officers residing in the territory now embraced in the town of Genesee-Falls, in the county of Wyoming, for services, and which accrued after the second Tuesday of November 1845, shall be audited and paid by the board of town officers of the said town of Genesee-Falls, and by the board of supervisors of the county of Wyoming, in the same manner that other town accounts are audited and paid.

Duty of superintendent
of the poor.

§ 8. The superintendents of the poor of the county of Livingston may give at least ten days' notice to the superintendents of the poor of the county of Allegany, that they intend to remove said paupers from said poor house, and at the expiration of said notice, they may remove the said paupers, and all expenses incurred for the support of the same shall be audited and raised by the board of supervisors of the county of Livingston, and paid over to the treasurer of the county of Allegany, at their next annual meeting.

Tenure of
office.

§ 9. All persons appointed to office residing on the territory hereby annexed, shall hold and exercise the duties of his or their office during the term of the same, notwithstanding this act.

CHAP. 198.

AN ACT to amend the charter of the city of Rochester.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

ARTICLE FIRST.

Non-resi-
dents lands
to be ass'd.

§ 1. The common council of the city of Rochester, in addition to their present powers, are authorized to assess the

lands of non-residents of said city, for the expense of cleaning and repairing streets and side walks and removing nuisances; and the said expense shall be assessed in the same manner, and the amount so assessed shall be collected in the same manner, and the same proceedings shall be had in case of the non-payment of the same, as in relation to the assessments for public improvements in said city.

§ 2. So much of section eight, of title four, of the act hereby amended, as provides for the publication of all laws and ordinances, passed by the said common council, and all votes and resolutions directing the payment of money is hereby repealed. But all ordinances by which any penalty may be imposed for a violation of the same, shall be published for one week, and all votes and resolutions directing the payment of money, shall be published at least once, in a daily newspaper printed in said city, of which the first publication shall be within eight days after the passage of such vote, ordinance or resolution. Repeal.
Except in certain cases

§ 3. In all proceedings by the common council, for the making of any public improvement, a brief and general description of the portion of the city deemed to be benefitted thereby, and proper to be assessed therefor, and also of the lands deemed necessary therefor, in case such improvement shall require the taking of the lands of any person, shall be deemed sufficient; and so much of sections six and seven, of title seven, of the act hereby amended, as requires any other or different description than herein provided, is hereby repealed. Brief description of land to be taken to be made.

§ 4. The police justice of said city shall have the same jurisdiction in suits brought for a violation of any of the city ordinances, or of the laws concerning the internal police of the state, as is now conferred upon any of the justices of the peace of said city. Police justice

§ 5. The common council may appoint two assistant engineers of the fire department of said city, in addition to the number now authorized. Assistant engineers.

§ 6. Section twelve of title eight of the act hereby amended, shall be so amended, that any person who shall have served as a fireman in the manner in said section provided, for the term of seven years, after he shall have arrived at the age of twenty-one years, shall be entitled to the exemption in the said section provided. Firemen when exempted.

§ 7. The public squares and parks of the said city shall not be liable to be assessed for the ordinary city or county taxes. Public squares and parks.

§ 8. Section seventeen, of title five, of the act hereby amended, is hereby amended by striking out all after the Part repealed.

CHAP. 257.

AN ACT to incorporate the German Young Men's Association of the city of Buffalo.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. The present members of the German Young Men's Association of the city of Buffalo, and such other persons as may hereafter become associated with them, agreeably to the constitution and by-laws of the corporation hereby created, are hereby constituted a body corporate, by the name of "The German Young Men's Association of the city of Buffalo," and by that name shall have succession for the purpose of establishing and maintaining a library, museum, reading rooms, literary and scientific lectures, exercises and debates, and other means of promoting moral and intellectual improvement ; with power for such purposes, to take and hold any real and personal estate, by purchase, grant, devise or otherwise, and to mortgage, sell or lease, such real or personal estate : Provided always, that the said corporation shall not, at any time, hold or possess real or personal estate, to an amount exceeding in value the sum of fifteen thousand dollars.

By laws.

§ 2. The said association shall have power to make and adopt a constitution and by-laws, rules and regulations for the admission and government of its members ; for the election of its officers and their duties ; for the suspension or expulsion of any of its members, and for the safe keeping and protection of its property and funds ; and from time to time to alter and repeal such constitution, by-laws, rules and regulations.

Affairs how managed.

§ 3. The management, control and disposition of the funds, property and pecuniary affairs of the said association, shall be vested in such of its members, and according to such rules and regulations, as the said association, by its constitution and by-laws or otherwise, shall from time to time ordain and direct.

Officers.

§ 4. The officers of the said association shall consist of a president, a vice-president, a recording secretary, a corresponding secretary, a treasurer and librarian, who shall constitute the executive committee of said association, and shall be elected to their respective offices for such periods, at such times and under such regulations as the said association, by its constitution and by-laws, may from time to time ordain and direct.

§ 5. The several officers of the said association, at the time of the passage of this act, shall continue to hold their respective offices as officers of the corporation hereby created, until the next election, (unless in case of a vacancy previously occurring,) and all personal property or funds, or securities now held by the said officers, or either or any of them, or by any other person or persons in trust for the said association, or for the use or benefit of the same, shall, by virtue of this act, vest in and become the property of, and may be sued for and recovered in the name of, the corporation hereby created; and the said corporation shall assume and be liable for all contracts and agreements and responsibilities which have been entered into or incurred previous to the passage of this act, by the officers of the said association or any of them, lawfully acting in behalf of the said association. Tenure of office.

§ 6. The estate, property and funds of the said corporation, shall be devoted solely to the general purposes and objects specified in the first section of this act; and the real estate of the said corporation shall be subject to taxation in the same manner that real estate is, that is held or owned by individuals. Funds how devoted.

§ 7. The said corporation shall possess the powers and be subject to the provisions and liabilities of the third title of the eighteenth chapter of the first part of the Revised Statutes. General powers

§ 8. This act shall take effect on its final passage; and may at any time hereafter be altered, amended or repealed by the legislature. Right to repeal.

CHAP. 258.

AN ACT to incorporate the *Henrietta Plank Road Company*.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All persons who shall become stockholders pursuant to this act of the corporation hereby created, shall be and they are hereby constituted a body politic and corporate, by the name of the *Henrietta Plank Road Company*, for the term of twenty-one years after the passage of this act. Corporation created.

§ 2. The capital stock of such corporation shall be fifteen thousand dollars, with the privilege of increasing the same to twenty thousand dollars; it shall be divided into shares of twenty-five dollars each, shall be deemed personal property, and be assignable as the by-laws of said corporation shall direct. Capital stock

ment of the bonds or certificates which shall, by virtue of this act, be substituted for such part or parts of such funded debt.

Savings
bank.

§ 4. It shall be lawful for the Rochester Savings Bank to invest such part of its funds as the trustees of the said bank shall deem expedient, in the public stock or bonds of the city of Rochester; any thing in the act incorporating the said bank to the contrary notwithstanding.

Real estate of
the city to be
sold.

§ 5. All the real estate now owned by the said city, except such as shall from time to time be appropriated to the use of the fire department of said city, and to the public markets and cemeteries thereof, and all the lands which shall hereafter be acquired by said city by purchase at sales for the non-payment of taxes and assessments in said city, shall be sold as hereinafter provided; and the proceeds thereof shall be appropriated to the increase of the sinking fund of the said city, and shall be applicable to the payment of the funded debt of said city in the same manner as the moneys appropriated to the said sinking fund by the act hereby amended; but the proceeds of such part of the said real estate, as is now pledged as aforesaid to the payment of any portion of the said funded debt, shall be first appropriated to the payment of that portion of said funded debt.

Comm'r
of the sink-
ing fund to
be elected.

§ 6. There shall hereafter be an officer of the said city who shall be called "the commissioner of the sinking fund," who shall be elected at the same time, and in the same manner, with the mayor of the said city, and who shall hold his office for the term of three years, unless sooner removed in the manner hereinafter provided. But it shall be lawful for the common council of said city on or before the first Tuesday of May next, to appoint in the same manner as the other officers of the said city are appointed by the said common council, a commissioner of the sinking fund, who shall hold his office until the next annual election in said city for city officers, to be held on the first Tuesday of March next, until his successor to be elected as hereinbefore provided shall have duly qualified.

May be re-
moved for
misconduct.

§ 7. The said commissioner may be removed from office for misconduct therein, by a vote of two-thirds of all the members of the common council at any stated meeting of the said common council; and after reasonable notice to said officer of the charges against him, and after he shall have had an opportunity of being heard in his defence.

He shall be a
resident and
elector.

§ 8. The said commissioner shall be a resident and elector of said city, and if, at any time during the term for which he shall be elected, he shall cease to be a resident of said city, his office shall thereby become vacated.

§ 9. In case any vacancy shall happen in the office of said commissioner, by death, removal from office or otherwise, ^{Vacancy how supplied} the common council of said city shall appoint some person to fill such vacancy, who shall hold his office until the next annual election in said city, and until another shall be elected and enter upon the duties of his office.

§ 10. Such commissioner of the sinking fund shall, before ^{Commissioner to give bond.} he enters upon the duties of his office, take the constitutional oath of office; and shall enter into a bond to the said city with sureties to be approved by the common council, and in such penalty as the common council shall prescribe, with a condition that he will faithfully perform the duties of his office, and will well and faithfully account for all moneys which shall come to his hands by virtue of his office.

§ 11. The said commissioner of the sinking fund shall, by ^{To have the custody of the funds, &c} virtue of his office, have the care and custody of all the funds and securities belonging to the sinking fund of said city. He shall also have the care and management of all the lands and real estate of said city hereinbefore required to be sold for the increase of the said sinking fund.

§ 12. The said commissioner shall sell and dispose of the ^{To sell the city lands.} said lands and real estate, and convert the same into money as soon as the same can be advantageously done; but no sale of any such lands or real estate shall be binding or obligatory upon the city, until the contract therefor shall be approved by the common council; and whenever any such sale shall be so made and approved, it shall be the duty of the common council to cause the same to be conveyed in pursuance thereof.

§ 13. The said commissioner shall, from time to time, de- ^{To deposit money in savings bank.} posit in the "Rochester Savings Bank," all moneys which shall be received by him as aforesaid, and shall keep a bank book containing entries of all moneys so deposited, and all moneys drawn out of said bank by the said commissioner, and which said bank book and account in the bank shall at all times be open to the inspection of any member of the common council of said city.

§ 14. The said commissioner shall apply the moneys which ^{Moneys received by him how applied.} shall be received by him, to the redemption or purchase of the bonds or certificates of the said city now outstanding, or which may hereafter be issued on account of the funded debt of said city, at such times, and in such a manner as shall be deemed most advantageous to the said city.

§ 15. The said commissioner shall annually, at the first ^{To report annually.} stated meeting of the common council in the month of February in each year, make a report to the said common council, showing the moneys received and disbursed by him during the year preceding such report, and containing also a detailed

statement of the funds and securities and property belonging or applicable to the sinking fund of said city. He shall also, whenever required by the common council, make report to the said common council of the state of the said sinking fund, and of the receipt and disbursement of moneys belonging thereto by him.

Leases for
lands sold for
taxes to be
delivered to
him.

§ 16. Whenever, and as soon as the title of the city to any lands purchased by the city at the aforesaid sales for the non-payment of taxes or assessments shall become perfected by the expiration of the period of redemption, it shall be the duty of the city treasurer to give notice thereof to the said commissioner of the sinking fund, and deliver to him the lease or other evidence of the title thereto.

Money to be
raised by tax
and how ap-
plied.

§ 17. It shall be the duty of the common council in each year after the year 1846, to assess and collect in the same manner as the ordinary taxes of the said city are assessed and collected, an amount of money equal to two per cent on the funded debt of said city, which shall exist in the year eighteen hundred and forty-six, and said money when so collected shall be applied to the credit of the sinking fund for the purpose of paying the principal of the funded debt of said city.

ARTICLE THIRD.

Mount Hope.

Superintend-
ents of Mt.
Hope ceme-
tery.

§ 1. There shall be appointed a board of superintendents of Mount Hope cemetery, to consist of three members. The commissioner of the sinking fund shall be one of said members, and the treasurer of the board. The other two shall be appointed by the common council as hereinafter provided.

How ap-
pointed.

§ 2. On or before the first Tuesday of May next, the common council shall appoint by ballot, each ballot containing but one name, two members of the board of superintendents of Mount Hope cemetery; the person having the highest number of votes shall hold his office for two years, and the person having the next highest number of votes shall hold his office for one year, and at every subsequent annual appointment of city officers, one superintendent shall be appointed in the same manner as the other officers of the city are appointed, who shall hold his office for two years, and in case of any vacancy in said office by death, removal from the city, or resignation, the common council shall, as soon as practicable, after said vacancy shall be made known to them, appoint a superintendent to serve out the remainder of the time of the term so made vacant.

Superintend-
ents to have
care of cem-
etery.

§ 3. The said superintendents shall have the care of Mount Hope cemetery, and all the grounds and other pro-

erty belonging thereto, and shall prescribe the duties, and regulate the fees of the city sexton. They shall make such improvements upon the property as they shall think expedient, but shall not expend in any one year more than three hundred dollars, without the consent of the common council previously obtained; and they shall receive no pecuniary compensation for their services; and said superintendents shall report quarterly to the common council the amount expended by them in the improvement of said property.

§ 4. The treasurer of the board shall receive all moneys due for lots sold heretofore, or which may hereafter be sold, and also all penalties collected for violation of city ordinances in relation to Mount Hope, and shall pay, upon the resolution of the board, for improvements made upon the grounds of Mount Hope, and also the incidental expenses of the board, when the accounts for said incidental expenses shall have been audited and allowed by the mayor, recorder and treasurer of the city.

Treasurer of the board to receive and pay all moneys for lots.

§ 5. It shall be the duty of the treasurer, whenever he shall have the sum of one hundred dollars, not otherwise appropriated, to deposit the same, in the Rochester Savings Bank, to his credit as treasurer; and to invest the same in the funded debt of the city whenever it can be advantageously done. And it shall be the duty of the common council to prescribe the form and manner of keeping the accounts of said fund, and also the records of the doings of said board.

To deposit in Savings bank

§ 6. It shall be the duty of the said board of superintendents to publish an annual report in relation to the matters committed to their charge, in one of the daily newspapers printed in said city, between first and the fifteenth day of February in each year.

Annual report to be published.

§ 7. All deeds or conveyances of lots in Mount Hope, shall hereafter be executed by the mayor and clerk of the city, and be countersigned by the treasurer of the board of superintendents.

Deeds for lots how executed.

CHAP. 199.

AN ACT to amend an act entitled "*An act in relation to the construction of the New-York and Erie Railroad,*" passed May 14, 1845, and for other purposes.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The thirteenth, fourteenth and fifteenth sections of the act entitled "*An act in relation to the construction of the New-York and Erie Railroad,*" passed May 14, 1845, are hereby repealed.

Repeal.

acts, matters and things, which to the said corporation it may appertain to do, under the regulations, restrictions, limitations and provisions herein prescribed and declared.

Affairs how
to be man-
aged.

§ 3. The management of the concerns of the said corporation shall be entrusted to seven directors, who shall be stockholders; and the commissioners named in the first section of this act, or a majority of those of them who may attend to the receiving of subscriptions, shall designate the time and place of holding the election for the first board of directors, and give reasonable notice thereof; and the said commissioners, or a majority of them, as aforesaid, shall be inspectors of said election, and shall certify under their hands, the names of those duly elected, and shall deliver over to them the subscription books; and the directors so elected, shall hold their office for one year after their election, as aforesaid, or until others shall be elected in their places; and that at the first, and all subsequent elections for directors of said company, each share shall entitle the holder to one vote; provided however, that no transfer of stock shall entitle any person to vote, unless such transfer of stock shall have been entered upon the books of the corporation, at least three days previous to the election at which the vote is offered.

Election of
directors.

§ 4. All elections for directors, after the first, shall be held annually, at such times and places, and under such regulations as shall be prescribed by the by-laws of the corporation; and the board of directors shall give fifteen days' notice of each and every election by advertisement, in at least two of the newspapers of the city of New-York, and one in the county of Tioga, and one in the county of Broome, and all elections shall be by ballot, by the stockholders, either in person or by proxy; and the persons who shall have the greatest number of votes shall be directors; and if two or more persons shall have an equal number of votes, then the said commissioners at the first election, and afterwards the directors in office, at any future election, or a majority of them, shall, by a plurality of ballots, determine which of said persons, so having an equal number of votes, shall be a director or directors, so as to complete the whole number to be elected; and all vacancies that may occur by death, resignation or otherwise, in the board of directors, shall be filled for the remainder of the year in which they shall happen, by such person or persons as the residue of the directors, or a majority of them shall appoint; and the corporation hereby created, shall not be dissolved by reason of not holding an annual election on the day prescribed by the by-laws, but it shall be lawful for the board of directors to provide for and direct an election on any other day, in case the stockholders shall neglect to make an election on the day fixed by the by-laws; and until such provisional election,

the directors for the time being, shall continue to discharge the duties of their office.

§ 5. The directors shall choose a president, a secretary and treasurer, to hold their offices during the pleasure of the board; and a majority of the directors shall be a quorum for the transaction of business; and the said directors shall have power to declare the stock of such persons as shall neglect to pay for the same, according to the terms of the subscription, and all previous payments thereon, to be forfeited to the use of the said company, or may sue for and recover from such delinquent subscribers and stockholders, the amount due on such shares, in an action of assumpsit, in any court having cognizance thereof, whether any payment shall have been made by such delinquent subscriber on such stock or not; and no stockholder, whether an original subscriber or an assignee, shall be entitled to a vote at any election, or at any general or special meeting of the said company, on whose share or shares any instalment or arrearages may be due and payable more than thirty days previously to such election or meeting.

Officers to be
chosen by
directors.

§ 6. The board of directors shall meet at such times and places as shall be found most convenient for the transaction of their business, and when met, in the absence of the president, may choose a chairman, and they shall keep minutes of all their transactions, fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers, as they shall deem necessary to carry on their intended works, and to fix their salaries and wages; to ascertain the times, manner, and proportions in which the stockholders shall pay the moneys due on their respective shares; to draw orders on the treasurer, provided that such drafts or orders be signed by the president, or in his absence, by a majority of the quorum present; and generally to do all such other acts, matters and things as by this act, and by the by-laws and regulations of the company they may be authorized to do.

Meetings and
powers of di-
rectors.

§ 7. The directors first chosen, shall procure certificates or evidence of stock for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him, subscribed and held; which certificates or evidence of stock shall be transferable at the pleasure of the holder in person, or by attorney duly authorized, in presence of the president or treasurer, or such other officer as the board of directors shall for that purpose designate, each of whom shall keep a book for that purpose, subject, however, to all payments due or to become due thereon; and the assignee hold-

Certificates
of stock.

nor more than ten miles above the mouth of the Lackawaxen river; and that the road on the Pennsylvania side of the river shall be so constructed as not to contract the natural flow and expansion of the said Delaware river at high floods, nor impede or obstruct the Delaware and Hudson Canal Company in their plan for the erection of an aqueduct across the Delaware at or near the mouth of the Lackawaxen, nor in any manner to disturb or injure the works or impede the business of the Delaware and Hudson Canal Company in Pennsylvania or in this State.

Route from
Deposit to
Binghamton.

§ 6. The said commissioners, when met as aforesaid, shall proceed to adjudge and determine whether in their opinion a practicable line or route on which the said company can construct their said railroad without great prejudice to the public interest of this State, and the interests of the citizens of this State, who, in their judgment will be affected by the construction and location of the said railroad, collectively considered, exists between Deposit in Delaware county and the village of Binghamton, or a point one mile westerly of said village in Broome county, on or near the route established or surveyed by Benjamin Wright, via Nineveh and Paige brook, running through Chenango county; and if in the opinion of the said commissioners, or a majority of them, such route does exist, then and in such case the said commissioners or a majority of them shall in their decision specify and designate such line or route; and the said New-York and Erie Railroad Company shall construct their said railroad between the said Deposit and the said village of Binghamton, or a point one mile westerly thereof, upon such line or route when so as aforesaid determined upon and designated; but in case the said commissioners or a majority of them, shall in the manner aforesaid, adjudge and determine that no such line or route of the character and description last mentioned exists, then the said company may, and they are hereby authorized to locate and construct their said railroad from Deposit aforesaid to and through the village of Binghamton to a point one mile westerly of said village, on any other route, or by the great bend of the Susquehanna river, and in or through the county of Susquehanna in the State of Pennsylvania.

To consider
the objects of
the charter
and acts
granting aid
and the law
of Pennsyl-
vania, &c.

§ 7. The said commissioners shall, in determining whether routes exist of the character and description mentioned in the preceding sections, on which the said company can construct their said railroad, take into consideration the objects of the original charter to the said company, and the several acts of the Legislature of this State in granting aid to the said company, and especially the provisions of the act mentioned in the first section of this act: Also the terms, conditions and requirements, penalties, regulations and restrictions imposed

on said company by the Legislature of Pennsylvania, in the act permitting the said company to locate and construct a portion of their railroad in said State; and a comparison of the grades or elevations, and depressions and curvatures in the line or track of said railroad in the other counties east and west of Sullivan county; and all such other evidence or facts as in their judgment are pertinent and proper, touching or relating to the matters submitted to their decision under this act; but such evidence or facts shall be verified by affidavit, or proved by the oath of witnesses, for which purpose any one of the said commissioners may administer an oath to any person or persons offering to testify before them.

§ 8. In case any one or more of the said commissioners shall neglect or become unable to perform the duties imposed upon him or them by this act, the Governor of this State shall supply such vacancy or vacancies by the appointment of other disinterested persons, not residents of the first, second, third, sixth and eighth senate districts of this State; and the commissioners thus appointed shall take the oath required of and be subject to the same provisions named in this act. Vacancy
how supplied

§ 9. The commissioners by whom the decision as to the lines or routes on which the said company may or shall construct their said railroad shall be made, shall cause such decision to be reduced to writing, and subscribed by them, and acknowledged as deeds of real estate are required by law to be acknowledged, and filed in the office of the Secretary of this State. Decision to
be filed in
Secretary's
office.

§ 10. The said company shall pay to the said commissioners such compensation for the services performed by them under this act, as the Secretary and Comptroller of this State shall determine, together with their expenses while engaged under this act. Pay of com-
missioners.

§ 11. The commissioners hereby appointed shall report to the next Legislature the result of their surveys and examinations, and the reasons for their decision, on or before the fifteenth day of January next, and upon the receipt of such report the Legislature may alter or modify such decision. They are to
report to the
next legisla-
ture.

§ 12. The Legislature may at any time alter, or repeal this act. Right to re-
peal.

§ 13. This act shall take effect immediately.

any damages that may be done thereon, and paying for the materials so taken away; the amount thereof, if the parties cannot agree, shall be assessed and valued by any three disinterested freeholders, residing in the neighborhood, under oath or affirmation, to be appointed by the parties; or if they cannot agree in their appointment, then to be appointed by any disinterested justice of the peace of the township; and it shall be the duty of the said freeholders to file a report of their assessment, within seven days after they shall have agreed upon the same, with a neighboring justice of the peace, by whom the same shall be entered upon his docket; and the said freeholders shall also, within the said seven days, notify each of the parties of the name of the justice of the peace with whom their report had been filed; and either party may appeal from said report to the court of the county, at any time within thirty days after the same shall have been so filed.

Collectors of
tolls to be ap-
pointed.

§ 12. It shall and may be lawful for the directors of the said company, as soon as the said canal and navigation shall be completed, so as to allow of the passage of boats, to appoint such and so many collectors of tolls for the passage of boats and vessels in and through the same, and in such places as they shall think proper; and that it shall and may be lawful for such collectors of toll and their deputies, to demand and receive of and from the persons having charge of any boat, ark, craft, raft or other vessel or instrument, or vehicle for transportation, passing through the said canal or navigation, such toll and rates as the said directors shall think proper by its by-laws to require at any lock or other convenient place; provided that the said tolls shall not in the whole, exceed the rate of two cents and five mills per mile, for every ton weight of the ascertained burthen or capacity of any boat, ark, craft or vessel, laden with or engaged in the transportation of coal, salt or plaster.

Tolls to be
collected.

§ 13. The collectors of tolls duly appointed by the directors of the company may stop and detain all boats, vessels, crafts, rafts or other instrument or vehicle for transportation, using the said canal and navigation, until the owner or commander or supercargo of the same shall pay the toll so as aforesaid fixed; and if any owner, skipper or supercargo of the same shall pass by any place appointed for receiving tolls, without making payment thereof, according to the provisions of this act, and with intent to defraud the said company out of such toll, he, she or they so offending, shall forfeit and pay for every time they shall so pass by each appointed place, to the said company, the sum of forty dollars, to be sued for and recovered by action of debt, in like manner, and subject to the same rules and regulations as debts under fifty dollars may be sued for and recovered, together with the costs of suit.

§ 14. In order to ascertain the tonnage of boats or other instruments or vehicles for transporting, using or passing the said navigation, and to prevent disputes between the supercargoes and collectors of tolls, concerning the same, upon the request of the owner, skipper or supercargo of the same, or of the collector of said tolls, at any lock or place appointed for receiving of tolls, upon the said navigation, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the tonnage the said boat is capable of carrying, and to mark the tonnage so ascertained, in figures upon the head and stern of the said boat, instrument or vehicle, in colors mixed with oil or other durable matter; and the said boat or vessel so measured and marked, shall be permitted to pass through the said canal and navigation for the price to which the number of tons of the vessel and cargo by her said marks shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo of any boat, shall decline choosing a person to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the directors of the corporation, or chosen by the said collector of tolls; and the tolls shall be paid according to such measurement, before any such boat shall be permitted to pass the place where such toll is made payable.

Tonnage of
boats to be
ascertained

§ 15. If any person shall wilfully and knowingly do any act or thing whereby the navigation shall be impeded, or any dam, lock, gate, canal, engine, machine, property or device whatsoever, thereunto belonging, shall be injured or damaged, he, she or they so offending, shall forfeit and pay to the said corporation, four times the amount of damages by them sustained, together with costs, to be recovered by action of debt, before a justice of the peace, or in any court of competent jurisdiction.

Penalty.

§ 16. It shall be the duty of the master or commander of any boat, ark, raft, vessel or instrument or vehicle for transportation, passing through said navigation, when he shall arrive within one-fourth of a mile from any lock erected in said navigation, to blow a trumpet or horn, whereupon the keeper of such lock shall attend for the purpose of opening the gate or sluice, to let the said boat, ark, raft or other vessel pass without unnecessary delay, and in safety; and if when said canal is in navigable order, any boat, ark, raft or other vessel shall be prevented from passing up or down any of said locks or sluices, by reason of the lock not being raised or opened, for more than thirty minutes, on any day except Sunday, the said corporation shall, on conviction thereof, before any justice of the peace of the proper county, forfeit and pay to the person so hindered, the sum of one dollar for every thirty

Horn or
trumpet
when to
be blown.

CHAP. 202.

AN ACT to amend an act entitled "*An act for the improvement of the state road from Rome to Sacketts-Harbor*," passed April 12, 1842.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Tolls how to
be expended.

§ 1. The fifth section of the act entitled "*An act for the improvement of the state road from Rome to Sacketts-Harbor*," passed April 12, 1842, is hereby amended by adding to said section at the end thereof, the following words, viz : "*Or said commissioners shall expend said tolls in repairing and improving any portion of said road, passing through any of said towns, if they shall have been so directed by a vote of their town at any annual or special town meeting thereof lawfully convened.*"

CHAP. 203.

AN ACT to amend an act entitled "*An act relative to the city of Brooklyn*," passed April 28th, 1845.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Kent avenue
may be ex-
tended.

§ 1. It shall be lawful for the mayor and common council of the city of Brooklyn to extend and open Kent-avenue from Flushing-avenue in said city, to the village of Williamsburgh in the county of Kings, and to cause said avenue to be graded and paved as a public street of the city, and to assess the expenses of such opening, grading and paving, upon the owners of the adjoining lands, according to the provisions of the city charter, and the laws in force in said city, in relation to public streets.

Lands to be
taken by
owners of
lots.

§ 2. Whenever Kent-avenue is so opened, graded and paved, as provided for in the first section of this act, it shall then be lawful for the owners of the land taken for Kent-avenue to enclose with their adjoining land the old road now leading from Flushing-avenue to Williamsburgh ; also Chase-avenue, except such parts of said avenue and road as will be included within the alignment of Kent-avenue when so extended.

Repeal.

§ 3. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

§ 4. This act shall take effect immediately.

CHAP. 204.

AN ACT to confirm certain official acts of the commissioners for loaning certain moneys of the United States of the county of Kings.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the official acts of the commissioners for loaning certain moneys of the United States of the county of Kings, and all proceedings by the same performed or transacted solely by Theodore Eames, he being one of such commissioners, or by any other person being one of such commissioners, at any time after the expiration of the term of office of any associate commissioner, and before a successor to such associate commissioner had been duly qualified, shall have and be held to be of the same force, effect and validity as if such acts or proceedings had been performed or transacted by such commissioners jointly, pursuant to the requirements of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the State of New-York for safe keeping," passed April 4, 1837, and all deeds and other papers purporting to be given by such commissioners, executed by Theodore Eames, he being one of such commissioners, or by any other person being one of such commissioners, or to which only one of the said commissioners affixed his seal and subscribed his name, shall have and be held to be of the same force, effect and validity, as if such deeds or other papers had been given by such commissioners jointly, and both of such commissioners had respectively affixed their seals and subscribed their names to the same, pursuant to the requirements of the aforesaid act.

Official acts confirmed.

§ 2. This act shall take effect immediately.

CHAP. 205.

AN ACT for the relief of Mordecai Ogden and John Durfee.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the canal board, and they are hereby authorized and required to audit and allow the claim of Mordecai Ogden and John Durfee for extra work, if any,

Claim to be audited and allowed.

done in the rebuilding of three locks on the Chemung canal, occasioned by an alteration made by the canal commissioners, subsequent to the making of the said contract, (upon the testimony already taken by the said canal board,) in the same manner and with the like effect, that the said canal board would have been authorized and required to do, had the application of the said Mordecai Ogden and John Durfee been presented to the canal board within the time required by law.

Payment to
be made.

§ 2. The commissioners of the canal fund shall pay to the said Ogden and Durfee the amount of the award, if any, made under the provisions of this act, out of any moneys appropriated or to be appropriated for the payment of canal damages.

§ 3. This act shall take effect immediately.

CHAP. 206.

AN ACT to amend an act entitled "*An act to provide for the appointment of a police justice in the village of Saratoga-Springs,*" passed May 14, 1845.

Passed May 12, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The fifth section of an act entitled "*An act to provide for the appointment of a police justice in the village of Saratoga-Springs,*" passed May 14, 1845, shall be and the same is hereby amended, so as to read as follows, viz :

Provision as
to justices
and judges.

"§ 5. No justice of the peace, judge or other magistrate, residing or keeping his office in said village, shall be bound to render any services, or entitled to receive any fees in criminal cases, except under the restrictions and circumstances hereinafter mentioned and provided for.

In case of
sickness or
absence of
police justice

1. If the complainant before such judge, justice of the peace, or other magistrate, shall prove by his own oath or that of any other person, that the said police justice is sick, absent from town, or otherwise unable to attend to such application, and the offence charged be of the degree of felony, the said justice of the peace, judge or other officer to whom the application shall be made, shall be bound to issue a warrant for the apprehension of the person charged with the commission of such offence, and shall be entitled to receive therefor the fees allowed by law to magistrates for like services ; but such warrant shall be made returnable before the said police justice, who shall conduct all the subsequent proceedings on the complaint the same as though the said warrant had been issued by him.

2. If the applicant to any such justice of the peace, judge or other magistrate shall apply for process against any individual charged with the commission of any offence less in grade than felony; such justice of the peace, judge or other magistrate, shall not be bound to render any services in the case, nor shall he receive any compensation for such services, if rendered, unless at the time of making such application, the said complainant shall prove by his own oath, or that of some competent witness, that the said police justice has been sick, absent, or otherwise unable to perform the duties of his office for the space of two days. The justices of the peace, judges or other magistrates residing in said village, shall receive the fees allowed by law for all services rendered under this section, to be audited by the board of supervisors. And the board of supervisors of the county of Saratoga, at the time of auditing the salary of the said police justice, shall deduct therefrom all fees incurred and allowed to other magistrates for services rendered during the absence of the said police justice from the town of Saratoga-Springs, as is in this section directed."

In case of application for a process to a justice or judge.

§ 2. In all cases of felony, the said police justice shall keep an account of his services rendered, and shall present a bill of the same to the board of supervisors at their annual meeting, which shall be audited by the said board, and the amount so audited shall be taxed upon the county, as a county charge, and credited to the town of Saratoga-Springs, to assist in paying the salary of the said police justice.

Police justice to keep account.

§ 3. In all cases when by the determination of the said police justice, or the verdict of a jury assisting the said police justice, in the trial of any defendant, the complainant shall be adjudged to pay the costs, the said police justice shall tax for his services in such trial or examination the usual fees of justices of the peace in similar cases, which costs shall be collected in the manner specified in the act entitled "An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845, and when so collected shall be placed to the credit of the town of Saratoga-Springs, to be appropriated to the payment of the salary of the said police justice.

Costs how paid.

§ 4. Any thing in the act entitled "An act to provide for the appointment of a police justice in the village of Saratoga-Springs," inconsistent with this act, is hereby repealed.

Repeal.

§ 5. This act shall take effect immediately.

CHAP. 263.

AN ACT to change the name of the Methodist Episcopal Church at Kingston, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Name.

§ 1. The corporation of the "Methodist Episcopal Church of Kingston," shall hereafter be known, distinguished and designated by the name and title of "St. James' Methodist Episcopal Church of Kingston."

Acts of trustees confirmed.

§ 2. All the acts of the trustees of said church heretofore done and performed under the name and style of the "St. James' Methodist Episcopal Church of Kingston," be, and the same are hereby declared as legal, effectual and binding, as if such name had been originally adopted in the certificate of incorporation.

Number of trustees.

§ 3. The nine trustees heretofore elected for said corporation shall continue to exercise the power of trustees of said corporation; and their previous acts as such trustees are hereby made and declared to be as valid and effectual as if that number had been originally named in the certificate of incorporation; and such corporation shall be and are hereby authorized to continue to elect nine trustees of the said corporation, in the same manner as if that number of trustees had been originally named in the certificate of incorporation, and such trustees shall be classed, or continue to be classed in the manner prescribed by the sixth section of the act entitled "An act to provide for the incorporation of religious societies," passed April 5, 1813.

§ 4. This act shall take effect immediately.

CHAP. 264.

AN ACT to incorporate the village of Ebenezer, in the county of Erie.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Bounds of the village.

§ 1. All that tract of land known and distinguished on a map of the Ogden Company's survey as the German Purchase, in township number ten, in the sixth and seventh range of townships, according to the Holland Land Company's survey, being a part of the late Buffalo Creek reserva-

tion, situated in the towns of Chickawaga, Hamburg and Lancaster, and also newly surveyed and laid down by Peter Emslie, surveyor, upon a certain map, a copy of which shall be filed, after the passage of this act, in the clerk's office of said county of Erie, shall hereafter be distinguished and known by the name of the village of Ebenezer; and the inhabitants residing therein are hereby constituted a body corporate, by the name of the trustees of the village of Ebenezer, and shall and may have succession as such.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to all the liabilities and restrictions, contained in the third title of chapter eighteen of the first part of the Revised Statutes, so far as may be applicable to such a corporation. General powers.

§ 3. The said corporation shall form a separate road and school district. Road district

§ 4. The trustees of said corporation shall be duly elected in accordance with the constitution and laws of this state; and shall have power, within said village, to make, publish, amend and repeal ordinances, rules, regulations and by-laws, for the following purposes: Power of trustees.

1st. To preserve peace and good order;

2d. To prevent vice, intemperance and immorality.

§ 5. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant or freeholder in the village of Ebenezer, in any action or proceeding, in which the said village is a party interested. Competency of inhabitants.

§ 6. The clerk of said corporation shall keep the corporate seal and all the papers belonging to said village, and copies of all papers duly filed in his office; and transcripts from the records of the proceedings of the board of trustees, certified by him, under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. Duty of clerk.

§ 7. The legislature may at any time alter, modify or repeal this act. Right to repeal.

CHAP. 265.

AN ACT for the benefit of the National Fire Insurance Company, in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for the National Fire Insurance Company in the city of New-York, the capital of which has become impaired by losses occasioned by the fire of the nine- Calls on stockholders

which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in
case of refusal
to pay
such calls.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given or by advertisement, in such time and manner as the vice chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company.

Sections of
the act of
Feb. 12, 1836,
so apply.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required, shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller; and immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Amount of
capital stock
how fixed.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 211.

AN ACT to amend the act incorporating the village of
Saratoga Springs, passed April 17, 1826.

Passed May 12, 1846, by a two third vote.

*The People of the State of New-York, represented in
Senate and Assembly, do enact as follows :*

§ 1. The trustees of the village of Saratoga Springs, are hereby empowered to borrow a sum of money, not exceeding ten thousand dollars, for the purpose of furnishing pure and wholesome water to the inhabitants of said village, and for the purpose of extinguishing fire therein ; and to enable them to pay the interest on the money thus borrowed, it shall be their duty, within thirty days after the annual election in the said village, in the year one thousand eight hundred and forty-seven, and within the same period during each year thereafter, to levy and collect a tax upon the real and personal property of said village, which, exclusive of collector's fees, shall not exceed seven hundred dollars in any one year, and which shall be in lieu of any other village tax to be collected, any law to the contrary notwithstanding.

Money may
be borrowed
by trustees.

§ 2. In making out the tax list upon said real and personal estate, the said trustees shall apportion the same on all the taxable property within the village, according to the valuation thereof on the last preceding assessment roll of the town of Saratoga Springs, including therein those who have become liable to taxation since said assessment roll was completed.

Taxes to be
apportioned.

§ 3. After completing said assessment, the trustees shall deposit the same with the clerk of the village for the inspection of all persons interested therein. They shall give ten days' previous notice, in the manner required to be given by assessors of towns, specifying the time and place they will meet to review the assessment on the application of any person conceiving himself aggrieved. They shall have the same power to correct and reduce such assessments as is vested in the assessors of towns.

Assessment
roll to be de-
posited with
clerk.

§ 4. For the purpose of collecting such assessments, the trustees shall immediately thereafter issue their warrants, under the hands and seals of a majority of them, to be directed to the collector of said village, who shall be elected by the electors of said village at the annual election held therein, commanding him to levy and collect the amount of such tax in the same manner as on warrants issued by the board of supervisors to the collectors of towns, and to make return thereof, and to pay over the money to the treasurer

Warrants for
collection to
be issued.

by them at the sale aforesaid, at a price equal to the present value of the same, exclusive of the improvements made thereon since said sale, and shall deduct therefrom the payments made for principal of the purchase money; and compute interest on the balance for such time as the interest has not already been paid, and shall issue new certificates to the holders, and take their bonds for the amount of such balance and interest, in the usual manner, payable at the usual time or times, and with the like condition of bonds in such cases.

Section four
amended.

§ 2. Section four of said act is hereby amended so that the word "though" occurring near the end of said section shall read "through."

§ 3. This act shall take effect immediately.

CHAP. 268.

AN ACT to amend an act entitled "*An act to establish a permanent exterior street or avenue in the city of New-York, along the easterly shore of the North or Hudson river, and for other purposes,*" passed April 12, 1837, and to amend an act entitled "*An act creating a public fund or stock in the city of New-York, to be called 'The Croton Water Stock,' and in relation to the sinking fund of said city,*" passed May 13, 1845.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Eleventh
avenue to
be extended.

§ 1. The Eleventh avenue shall be continued and extended along the present line thereof from its present southerly termination at Nineteenth-street to Seventeenth-street, and Eighteenth and Nineteenth-streets shall be continued and extended along their present respective lines from their present westerly termination to the easterly line of the Thirtieth avenue, as laid out on a map drawn by Edwin Smith, city surveyor, bearing date February tenth, one thousand eight hundred and forty-six, entitled "Map shewing an extension of Eighteenth and Nineteenth-streets and the Eleventh avenue," and approved by the mayor, aldermen and commonalty of the city of New-York, passed in common council on the thirty-first day of March, one thousand eight hundred and forty-six, (which map is filed in the office of the street commissioner of the city of New-York.") But nothing herein contained shall be construed to terminate the Eleventh avenue on the easterly side thereof, from the northerly side of Seventeenth to Fourteenth-street.

§ 2. The proprietors of all former grants of land under water, or of water lots adjacent to and fronting on the Eleventh avenue, between Seventeenth and Nineteenth-streets, shall have the pre-emptive right in all grants to be made by the said mayor, aldermen and commonalty of the city of New-York, of any lands lying under water, or water lots lying between Seventeenth and Nineteenth-streets and the Eleventh and Thirteenth avenues, as laid down on said map, on paying the following sums in gross as a consideration for the same, to wit : For the grant of land under water, or water lots lying between Eighteenth and Nineteenth streets, and the Eleventh and Thirteenth avenues, three hundred and sixty-eight dollars ; for the grant of land under water, or water lots lying between Eighteenth-street and the line of the centre of the block between Seventeenth and Eighteenth-streets, and the Eleventh and Thirteenth avenues, one hundred and thirty-one dollars and thirty-three cents ; and for the grant of land under water, or water lots lying between Seventeenth-street and the said centre line, and the Eleventh and Thirteenth avenues, one hundred and six dollars and sixty-four cents.

Water lots,
how to be
sold.

CHAP. 269.

AN ACT *in relation to Flushing avenue in the city of Brooklyn.*

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Flushing avenue, as the same has heretofore been opened, is hereby confirmed, and all the proceedings for the opening of said avenue are hereby declared to be lawful.

Avenue con-
firmed.

§ 2. The said avenue as now opened under proceedings had by the common council of the city of Brooklyn, is hereby declared to be a public street, notwithstanding the same may have been opened on a line different from the line laid down by the commissioners for laying out the city of Brooklyn.

Declared a
public street.

§ 3. This act shall take effect immediately.

CHAP. 270.

AN ACT to provide for the enrolment of the Militia, and to encourage the formation of uniform companies.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Citizens sub-
ject to militia
duty

§ 1. All able bodied white male citizens between the ages of eighteen and forty-five years, residing in this state, and not exempted by the laws of the United States, and the provisions of this act, shall be subject to military duty, excepting,

Exempts.

1. Officers in the army of the United States ;
2. Ministers and preachers of the gospel ;
3. Persons who have been or hereafter shall be regularly discharged in consequence of the performance of military duty, in pursuance of any law of this state, and such firemen as are now exempt by law ;
4. Commissioned officers who shall serve as such in the militia of this state or in any one of the United States for the space of five years ; but no such officer shall be so exempt, unless by his resignation after such term of service duly accepted, or in some other lawful manner, he shall have been honorably discharged ;
5. Every non-commissioned officer, musician and private of every uniform company or troop raised or hereafter to be raised, who has or shall hereafter uniform himself, and whose term of service in such company or troop shall amount to seven years from the time of his enrolment therein, shall be exempt from military duty, except in cases of war and insurrection.
6. All persons except commissioned or warrant officers, and members of uniformed companies duly organized, who shall annually commute for military duty by paying to the collector or receiver of the town or ward in which he resides the sum of seventy-five cents, between the first day of May and the first day of November in each year, such collector or receiver shall give duplicate receipts therefor, and such receipts or his return thereof, shall be the sole evidence of such exemption, and where one of such duplicates shall have been delivered to the commandant of the company within the bounds of which such person shall reside, such persons shall not be returned or fined for any delinquency or deficiency in respect to any military rendezvous, parade or training, during the year in which such certificate was given ;
7. Any member of the religious society of friends, or other

person having conscientious scruples against doing military service, may at any time, between the first day of May and fifteenth day of August in each year, deliver to an assessor of the town or ward in which he resides, an oath or affirmation in writing, that he has conscientious scruples against doing military service, which oath or affirmation may be made before any assessor or justice of the peace; such oath or affirmation shall be filed and preserved by the said assessor; and such assessor shall give to the person making such oath or affirmation, duplicate certificates that such person has delivered to him such an oath or affirmation; and shall also, when the assessment roll of his town or ward for that year is completed, annex to the same a list of all persons who have filed with him the aforesaid oath or affirmation; and thereupon the same proceedings shall be had for the collection of the sum of seventy-five cents, from each of said persons, as are directed and authorized by the provisions of chapter tenth of the first part of the Revised Statutes, in respect to the collection of a commutation of four dollars from persons who should elect to commute for the performance of military duty, as provided for in that chapter; and the board of supervisors shall issue their warrant for collection thereof, in the manner specified in such chapter; such assessors for taking such oath or affirmation, and giving such certificate, shall be entitled to a fee of twelve and a half cents, to be paid by the person entitled to said certificate; the making and delivering of such oath or affirmation shall not excuse the person making the same from doing military duty, unless he shall deliver one of the said duplicate certificates so to be given by the assessor to the commandant of his company before the twentieth day of August of the year for which such certificate was given. No person named in any such certificate shall be bound to appear at any parade, or be returned to any court martial for not doing military duty for the year for which such certificate was given; the sums to be collected as commutations by the collectors under this section shall be paid by the collectors to the county treasurer.

§ 2. All able bodied white male citizens between the ages of eighteen and forty-five years, not exempt by the laws of the United States, shall be enrolled by the commanding officer of the company district in which they shall respectively reside, and report the same in an alphabetical list to the inspector of his brigade. Persons to be enrolled.

§ 3 The commander-in-chief shall cause the state to be divided into eight military division districts, according to population, describing the boundaries thereof; which description shall be published and filed in the adjutant-general's office, and transcribed into a book to be kept for that purpose. State to be divided into 8 division districts

Time limited § 8. Said corporation shall, within four years from the passage of this act, construct at least the westerly ten miles of the road so to be located, and shall afterwards, during its existence as a corporation, keep and maintain said road in good condition and repair. If said ten miles of said road shall not be constructed in said four years, said corporation shall be deemed to be dissolved, and its corporate rights shall wholly cease.

Routes of highways may be used. § 9. The said corporation may use for the construction of their said road, the route of any public highway on which the same may be laid by said commissioners, with the consent in writing of all the commissioners of highways of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways therefor. Such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town. If such consent shall be refused, the said corporation may use any such road on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders, to be appointed by one of the judges of the county of Erie, in the manner prescribed in article second, of the first title, of chapter eighteenth, of the first part of the Revised Statutes, and to proceed as directed in said article.

Rates of toll. § 10. Whenever any five continuous miles of said road shall be completed, it shall be lawful for said corporation to erect a toll gate thereon, and appoint a toll collector for the same; and to do the same as often as any additional continuous five miles of such road shall be completed, but no such toll gate shall be erected within three miles of the court house in the city of Buffalo. At each of such gates, when erected in pursuance of this act, the said corporation and the toll collectors thereof may demand and receive the following tolls, viz: For every carriage, sled, sleigh or other vehicle of any description, drawn by one horse or other animal, three cents; if drawn by more than one animal, three cents in addition for every such additional animal; for every horse and rider, three cents; for every horse without a rider, every mule, or head of neat cattle, not attached to a vehicle, and every half score of sheep or swine, one cent. The collector of toll at each of said gates may detain and prevent from passing such gates any animal, team, carriage or other vehicle subject to toll, until the toll thereon shall be paid.

Penalty. § 11. Any person who shall wilfully injure, break or throw down any gate which shall have been erected on said road pursuant to the provisions of this act, or dig up, or wilfully injure or spoil any part of such road, or any thing thereunto belonging, or shall drag along or across such road, any log, timber, wood or stone, so that the same shall come in contact

with the even surface of said road, or forcibly or fraudulently pass any such gate without the payment of the legal toll, or shall, with his team, carriage, sleigh, sled or other vehicle or animal, turn out of said road and pass any gate thereon on ground adjacent thereto, and again enter on such road, shall, for every such offence, forfeit to such corporation the sum of ten dollars in addition to the damages resulting from his wrongful act; which penalties may be recovered by said corporation in an action of debt in any court having cognizance thereof, and a separate suit for such damages may in like manner be prosecuted and maintained by such corporation.

§ 12. The provisions of article second, title first, of the eighteenth chapter of the Revised Statutes, respecting the purchase of lands necessary for the purposes of said road, its value, and the appraisement and payment of damages to the owners of such land, shall apply to the corporation created by this act. Lands now acquired.

§ 13. The commissioners who shall locate the said road shall cause an accurate survey and description thereof, duly certified under their hands and seals, to be filed in the office of the clerk of the county of Erie, and of the clerks of the several towns in which any part of said road shall be situated. Surveys of road to be filed.

§ 14. The corporation hereby created shall possess the general powers, and be subject to the general restrictions and provisions and liabilities prescribed in the third title, of the eighteenth chapter, of the first part of the Revised Statutes, as far as the same may be applicable, except as the same may be modified by this act. General powers.

§ 15. The legislature may at any time modify, alter or repeal this act. Right to repeal.

§ 16. This act shall take effect immediately.

CHAP. 213.

AN ACT to amend "An act to incorporate the Buffalo and Niagara Falls Railroad Company," passed 1834.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows:

§ 1. The Buffalo and Niagara Falls Railroad Company are authorized to re-locate and re-construct that part of the track of their road south of its present intersection with the military road near Cherry's, in the town of Tonawanda, so as to straighten the same thence to Scajaquadies creek, and to make such other alterations in its route thence to its south- Road to be re-located and re-constructed.

ern terminus, as shall be necessary to accommodate the business and travel of the road, and shall be approved by the corporate authorities of the village of Black Rock and the city of Buffalo, so far as the same may be located in those places respectively; and for these purposes the company shall possess all the rights and privileges granted to them in their original act of incorporation.

C HAP. 214.

AN ACT to repeal the act incorporating the village of Westfield in the county of Chautauque.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Repeal.

§ 1. The act entitled, "An act to incorporate the village of Westfield," passed April 19th, 1833, is hereby repealed.

CHAP. 215.

AN ACT to incorporate the New-York and Connecticut Railroad Company.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. John T. Norton, William H. Imlay, George Beach, James Goodwin, Edmund G. Howe, William D. Ely, Egbert Cowles, William L. Cowles, Tracy Peck, George W. Bartholomew, Milo Hoadley, J. M. L. Scovill, R. H. Hotchkiss, Eli T. Hoyt, Edgar S. Tweedy, with such other persons as shall associate with them for that purpose, are constituted a body politic and corporate, by the name of the "New-York and Connecticut Railroad Company;" by which name they are empowered to sue and may be sued, may plead and be impleaded in any court in this state, and may make and have a common seal, and the same may break, alter or renew at pleasure. And the said company is hereby authorized and empowered to construct a single, double, or treble railroad or way from some suitable point on the easterly line of the state of New-York, adjacent to the town of Ridgefield, in Connecticut, to some suitable point on the Harlem railroad, in the county of Putnam at least one and a half miles north of the north line of Westchester county; and to connect with the said railroad, on such route as shall be deemed most expedient, and to transport, take and carry property and persons on the same, by the

power and force of steam, of animals, or of any mechanical or other power, or of any combination of them which the said company may choose to employ; with permission also to make any lawful contract with any other railroad corporation in relation to the business of the said company.

§2. The capital stock of the said company shall be one ^{Capital stock} hundred and fifty thousand dollars, with liberty to increase the same to five hundred thousand dollars; and the stock shall be divided into shares of one hundred dollars each, and shall be deemed personal property, transferable in such manner as the by-laws of the said corporation shall direct.

§3. That the persons named in the first section of this act, ^{Subscrip-} or a majority of them, shall be commissioners to open books ^{tions to stock} to receive subscriptions to the capital stock of said company, at such times and places as they, or a majority of them, may appoint, and shall give notice of the times and places of opening said books in such manner as they may deem reasonable, and shall receive said subscriptions under such regulations as they may adopt for that purpose; and if more than one thousand five hundred shares of stock shall be subscribed, they shall have the power to make the shares, so subscribed, the capital stock of the company, provided they shall not exceed five thousand shares; and in case they shall exceed five thousand shares, the same shall be reduced and apportioned by them, in such manner as may be deemed most beneficial to the said company. And when the books of subscription to the capital stock of said company are closed, they shall call ^{Meeting for} the first meeting of the stockholders of said company in such ^{election of} way and at such time and place as they may appoint, for the choice of nine directors of said company; and in all meetings of the stockholders, each share shall entitle the holder to one vote, to be given in person, or by lawful proxy. And the election of the said board of directors shall then and there be made by such of the stockholders as shall attend for that purpose, either in person or by proxy; and the said commissioners shall be inspectors of the first election of directors of the said company, and shall certify under their hands the names of those duly elected, and deliver over the subscription books to the said board of directors, and the time and place of holding the first meeting of the first directors shall be fixed by the said commissioners; and the said board of directors shall have power to appoint an engineer, and cause such examinations and surveys for the said railroad to be made, as may be necessary to the selection by them of the most advantageous line, course or way, for the said railroad; and the said board of directors shall, after such examinations and surveys shall be made, select and, under their hands and seals, designate the line, course or way which they may deem most advanta-

geous for the said railroad ; one of which certificates shall be filed in the office of the clerk of the county, of each of the counties in which the said railroad or any part thereof may be located ; which line, course or way, so selected and certified shall be deemed the line, course or way on which the said company shall construct their said railroad, as hereinafter mentioned ; the expenses of all which surveys and examinations, and all manner of incidental expenses relating thereto, shall be paid for by the said company.

Affairs how managed.

§ 4. The immediate government and direction of the affairs of the company shall be vested in the board of directors, who shall hold their office till others are duly elected and qualified to take their places as directors. And the said directors (four of whom, the president being one, shall be a quorum for the transaction of business,) shall elect one of their number to be president of the board, who shall also be president of said company; they shall also choose a clerk, who shall be sworn to a faithful discharge of his duty; and a treasurer who shall give bonds, with surety, to said company, in such sum as the the said directors may require for the faithful discharge of his trust.

Election of directors.

§ 5. The annual meeting of the stockholders for the choice of directors, shall be holden at such time and place, and upon such notice as the said company in their by-laws may prescribe. And, in case it should at any time happen that an election of directors shall not be made on the day appointed by the by-laws of said company, the said company shall not for that cause be deemed to be dissolved ; but such election may be holden on any day which shall be appointed by the directors of said company; and said directors shall have power to fill any vacancy which may occur by death, resignation, or otherwise.

By laws.

§ 6. That the directors shall have full power to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate and effects of the company; (not contrary to this charter, or the laws of this state, or of the United States,) the transfer of shares; the duties and conduct of their officers and servants; the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company. The said company are also hereby authorized and empowered to purchase, receive and hold such real estate as may be necessary and convenient in accomplishing the objects and intentions of this act; and may, by agents, surveyors and engineers, enter upon such water, place or places as may be designated by the board of directors of said company, as the line, course, road or way whereon to construct the said railroad or ways, and

Land how to be purchased

the buildings required and appertaining thereto. And it shall be lawful for the said company to enter upon and take possession of all such necessary and convenient real estate, whether the same be voluntarily granted with or without purchase, or the possession of the said company be confirmed by virtue of the proceedings hereinafter prescribed. In case any disagreement shall occur between said company and the owner or owners of any such necessary or convenient real estate as aforesaid, in regard to the price to be paid by the said company for the same; and if the owner have no place of residence in this state known to the occupant of the land thus needed for the said railroad, the said company shall not take possession of such lands without first having deposited with the clerk of the court of chancery for the circuit in which the said lands may be situated, an amount equal to the sum or sums demanded by the owner or owners of such lands subject to the decision upon the said disagreement, which may be made in the court of chancery in the manner hereinafter provided; and in case the owner or owners aforesaid shall refuse to name or demand any price for their lands, or if the residence of the owner be unknown as aforesaid to the occupant of said land, the amount to be deposited by the company as aforesaid, subject to the decision of the court of chancery as aforesaid, shall be a sum equal to the amount paid to, or demanded by the next adjoining land owner for an equal or proportionate quantity of land, upon whose land the said company may have entered; and in case of any disagreement between the said company and the owner or owners of such land as aforesaid, the board of directors may present their petition to the chancellor of this state, or to the vice chancellor of the circuit wherein such land may be situated, setting forth the necessity of such lands for making their road or ways as aforesaid, and the attempt and failure to purchase the same, with the name and residence (unless so unknown as aforesaid,) of the owner or owners; and the chancellor or vice-chancellor shall direct such notice to the owner or owners of such land as he shall deem proper, of the time and place of hearing the parties; and upon proof of due service of such notice, and upon hearing the parties, or either of them, if the other after due notice shall not attend, the chancellor or vice-chancellor shall appoint three competent and disinterested freeholders of the county in which the lands are situated, to be commissioners to appraise said lands. The said commissioners shall appraise said lands, and shall award to the owner or owners thereof what they shall deem to be the full value of the same, and assess the damages such owners may sustain by the taking of their lands, by injury to buildings, fences or lands, and in the construction of such road, without any de-

duction on account of any real or supposed benefit or advantage, which such owners of such lands may derive by the construction of such road ; and shall be authorized to examine the lands, to administer oaths, and hear testimony, and shall make their appraisalment in writing, without delay, under their hands, with a minute and accurate description of the lands appraised, with a map thereof, and shall report the same, with the testimony taken, to the court of chancery. The chancellor or vice-chancellor shall examine their report, and shall hear the parties, if desired, and may increase or diminish the amount awarded, if he shall be satisfied injustice has been done. Upon proof to the chancellor or vice-chancellor within thirty days after his determination, of payment to the owner, or of the depositing to the credit of the owner in such bank as the said chancellor or vice-chancellor shall direct, of the amount of such appraisalment, and the payment of one half of the expenses attending it, by the said company, the said chancellor or vice-chancellor shall make a decree or order particularly describing the lands and reciting the appraisalment and the mode of making it, and all other facts necessary to a compliance with this section of this act ; and when the said decree or order shall be recorded in the office of the clerk of the county in which the land is situated, whose duty it shall be to record the same, the possession of the said lands shall be thereby confirmed to the said company, together with any legal and equitable right and title to the same for the purpose hereinbefore named ; and the remaining half of all the costs and expenses of the said appraisalment shall be paid by the owner or owners of said lands, except in case the said lands belong to infants, married women, idiot or insane persons ; in which case the whole of such costs and expenses shall be paid by the said company. In case any married woman, infant, idiot, insane person, or non-resident, who shall not appear after such notice, shall be interested in any such land, the chancellor or vice-chancellor shall appoint some competent and disinterested person to appear before the said commissioners and act for and in behalf of such married woman, infant, idiot, insane person and non-resident ; and in case of such deposit as aforesaid, the same or so much thereof as shall remain after payment of the award and such expenses as aforesaid, shall be refunded to said company ; provided, that this section shall not be so construed as to prevent any individual through whose land said road may run, from the right of crossing the same at suitable and convenient places, for farming or other necessary purposes ; nor to authorize the said company to take, except by agreement with the owner thereof, any timber, stone or other materials, on any land except that to which a title shall have been acquired as pro-

vided in this act, or on which the said railroad or way shall be constructed. The compensation of said appraisers shall be two dollars each for every day they shall be actually employed.

§ 7. The said company is hereby authorized to construct, erect, build, make and use their said railroad or ways, of suitable width and dimensions to be determined by the directors of the said company, on the line, course and way selected or designated by them, in manner aforesaid; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same; and shall have power to erect and maintain thereon toll-houses and such other buildings as they may deem suitable to their interests. And it shall be lawful for the said company, from time to time, to fix, regulate and receive the tolls and charges by them to be received for transportation of property or persons on their said railroad or ways. Road how to be constructed.
Tolls and charges.

§ 8. Whenever it shall be necessary for the construction of their single, double or treble railroad or ways, to intersect or cross any stream of water or water courses, or any road, street or highway, it shall be lawful for the said company to construct said railroad or ways across or upon the same: but the said company shall restore the stream or water course, or road, street or highway thus intersected, to its former state, or in a sufficient manner not to impair its usefulness; and whenever any road, street or way, other than a railroad, shall hereafter be laid out by public authority across said railroad, said company shall build and maintain a good and substantial crossing for the same, over, under or upon their said railroad, as the grade may require. And said company shall moreover erect and maintain sufficient fences upon the line of the route of their said railroad or ways. Crossing streams and highways.

§ 9. If any person or persons shall wilfully do, or cause to be done any act or acts whatever, whereby any building, construction or work of the said company, or any engine, machine, car, structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending, shall forfeit and pay to the said company treble the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said company, with costs of suit, by action of debt. Penalty.

§ 10. Each subscriber shall pay five per cent on the amount subscribed by him at the time of making such subscription, and it shall be lawful for the directors, or a majority of them, to require the payment of such other sums of the capital stock, at such times and in such proportions, and on such conditions as they may deem fit; and in case of refusal or neglect to Calls on stockholders

make payment so required, the stock of such stockholder, or so much thereof as shall be necessary, may be sold by the said directors, at public auction, after thirty days from the time when the payment became due; and the surplus money, the avails of such sale, after deducting the payments due and interest thereon, and the necessary expenses of such sale, shall be paid over to such negligent stockholder; but at least thirty days previous notice shall be given of the place and time at which the said several instalments of the capital stock are to be paid, in a public newspaper published in the city of New-York.

Money may
be borrowed.

§ 11. The said company may borrow, from time to time, such sum or sums of money as may be necessary to complete said road, in the whole not exceeding that of their capital stock actually paid in, and may issue and dispose of their bonds for any amount so borrowed; and are hereby authorized to mortgage any part of their corporate property and privileges to secure the payment of said bonds. And the said directors may confer on the holder of any bond they may issue for any money so borrowed, for the use of said road, the right to convert the principal due thereon into stock of the said company, at any time not exceeding five years from the date of said bond, under such regulations as the said directors may see fit to adopt.

General
powers.

§ 12. The said corporation shall possess the general powers and be subject to the general liabilities and restrictions prescribed by such parts of the eighteenth chapter, of the first part of the Revised Statutes, as are not repealed.

Company
may join
other roads.

§ 13. It shall be lawful for the company hereby created, to cross, intersect, join or unite with, or to enter on and use the railroad and structures of any railroad company, or private company when associated under any law of this state, or of any other state, for the purpose of constructing a railroad on lands purchased for that purpose, at any point which the directors of said companies may think advisable, on such terms as the directors of the two companies respectively may agree upon; and in case of disagreement between the directors of the said companies, then at such point and on such terms in respect to all matters of importance relating to the legitimate business of the said several companies, on which such disagreement exists, as the court of chancery of this state shall determine to be equitable and just between the said companies. And it shall be lawful for the said company to make joint stock with any other railroad company of this state, or of any other state, with which they may so connect, and particularly with the "New-York and Hartford Railroad Company," upon such terms as may be agreed on by the directors of such com-

panies respectively, and assented to by the holders of at least two thirds of the stock of the said companies respectively.

§ 14. In cases where the said company shall not have acquired a valid title to any lands occupied by their said road, or the title which they may have obtained shall have failed for any cause, the necessary premises in that case and the title thereto may be acquired by the said company; and it shall be lawful for it to proceed to assess the damages to the owners or persons interested in such lands anew, observing all the provisions made applicable to the mode of acquiring title to land. Provision relative to procuring title to land.

§ 15. If the said company shall omit to complete their said road, and put the same in operation within five years from the time when this act shall take effect, for which term it shall be in force, then the said corporation shall thenceforth cease, and this act shall be null and void. Time limited

§ 16. The said corporation, before running any cars upon the said railroad, shall erect and thereafter maintain upon the sides thereof, except when the road shall intersect some public highway, a fence of such height and strength as is by law required, as a division fence between the owners of adjoining lands; and shall also make and keep in repair, wherever the same may be necessary upon the line of the said railroad, suitable guards to prevent cattle from running upon the same; but this section shall not prevent persons owning or occupying lands adjoining the said road from erecting at proper and convenient places, where they may have occasion for crossing the said road for farming and other necessary purposes, suitable gates in the line of said fence, to facilitate such crossing, and to be kept in repair by the person using the same; this section, however, shall not be construed to require said corporation to erect fences, when the said railroad is constructed under circumstances whereby it is inaccessible to cattle. Fences to be erected and maintained.

§ 17. Every railroad company, upon being thereto required by the Postmaster General of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the Post Office department," approved March 3d, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay to the people of this state one hundred dollars for every day it shall so neglect or refuse. Every railroad company required to contract for carrying the U. S. mail.

§ 18. The Legislature may at any time alter or repeal this act. Right to repeal.

CHAP. 216.

AN ACT to authorize the construction of a Railroad from New-York to Albany.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. All persons who shall become stockholders pursuant to this act, shall be and they are hereby constituted a body politic and corporate, by the name of "The Hudson River Railroad Company," with power to construct a single, double or treble railroad or way, between the cities of New-York and Albany, commencing in the city of New-York, with the consent of the corporation of the city of New-York, and passing through the counties of Westchester, Putnam, Dutchess, Columbia, and ending at some point on the Hudson river, in the county of Rensselaer, opposite the city of Albany, to be laid with an iron rail weighing not less than seventy pounds per lineal yard ; with power to construct such branch or branches, for depot and station accommodations, as may be required for the business of said railroad ; and to transport, take or carry any property and persons upon the same, by the power and force of steam, of animals, or of any mechanical or other power, or of any combination of them, for the term of fifty years from the passage of this act ; it being expressly understood that nothing contained in this act shall authorize or allow the construction of a bridge across the Hudson river ; but the said company may, with the consent of the corporation of the city of Albany, establish a ferry across the said river at Albany, for the accommodation of the business of the said railroad.

Time limited

§ 2. If the corporation hereby created shall not, within one year from the passage of this act, commence the construction of said railroad or way, and expend in the purchase of the right of way, and in its construction, at least the sum of three hundred thousand dollars within the first fifteen months, and the further sum of one million dollars within the second year from the passage of this act, and the further sum of one and a half millions of dollars within the third year from the passage of this act, and render, at the expiration of each of the above terms, satisfactory vouchers therefor to the comptroller of this state ; and shall not, within four years from the passage of this act, construct, finish and put into operation, a single track road, throughout the line of said railroad or way, then the right of said corporation shall be null and void.

§ 3. The capital stock of said company shall be three ^{Capital stock} millions of dollars, but may be increased as hereinafter mentioned, and shall be divided into shares of one hundred dollars each, and shall be deemed personal property and transferable in such manner as the said corporation shall by by-laws direct.

§ 4. John B. Jervis, Saul Alley, Stephen Allen, James ^{First direc-} Hooker, James Boorman, James N. Wells, Robert Kelly, William Chamberlain, Thomas W. Pearsall, Fortune C. White, Gouverneur Kemble, Aaron Ward and Matthew Morgan, shall constitute the first board of directors, who shall hold their offices until the second Monday in June, one thousand eight hundred and forty-eight, when the first regular election shall take place; and they shall also be commissioners, whose duty it shall be, within the period of six months ^{Subscrip-} after the passing of this act, at some suitable place, in the cities of New-York and Albany, and such other places as they may determine, to open books to receive subscriptions to the said capital stock of said corporation for the period of thirty days, ten days in the city of New-York, eight days in the city of Albany, and at least two days in each of the other places, where the said books may be opened, said books to be kept open each day from ten o'clock in the forenoon until four o'clock in the afternoon; and twenty day's public notice shall be given by said directors, acting as commissioners, of the time and place of opening such books, in one of the public newspapers in each of the said cities, and in such other places in which said books may be opened; and in case a greater amount in the whole shall be subscribed after opening the books than three millions of dollars, stock shall be issued therefor to the extent of the subscription, but not beyond five millions of dollars of stock shall be issued under this section; and if such subscription exceed five millions of dollars the said commissioners shall distribute the stock to that amount, to the subscribers in such manner that the excess in the subscription to said stock shall be deducted from the largest subscriptions in such manner that no subscription is reduced while any one remains larger; and the stockholders shall have power, after one-half the capital ^{Surveys to be made.} stock first mentioned shall have been subscribed, and five per cent thereof paid in, to exercise the powers and privileges conferred by this act, and thereupon the directors may appoint an engineer or engineers, and cause to be made such examinations, surveys and maps for the said railroad, as may be necessary to the selection, by them, of the most advantageous line or lines, for the location of the road. But the said road shall be located in and confined to the tier of towns and the city of Hudson, bounded on the Hudson river, ex-

cepting the towns of Germantown and Stuyvesant, in the county of Columbia; and the said road may be located in and through the towns of Claverack and Ghent, or either of them; but no part of said road in the two towns last named shall be constructed at any point more than two miles and a half east from the Hudson river; and the directors for the time being, shall, after such examinations and surveys shall be made, select, and by certificates drawn on suitable maps under their hands and seals, designate the line, course or way which they may deem most advantageous for the said railroad; which certificates for lands lying in the county of New-York shall be filed in the office of the register of the city of New-York, and for lands in other counties, in the office of the clerk of the counties in which the lands are situated, and through which the said road shall pass; which line, course or way so selected and certified, shall be the line, course or way on which the said corporation shall construct, erect, build, or make their railroad, with a single, double or treble track, as herein mentioned; the expense of all which surveys and examinations, and all reasonable and necessary incidental expenses relating thereto, shall be paid by the said corporation. The said directors may locate their railroad on any of the streets or avenues of the city of New-York, westerly of and including the Eighth avenue and on or westerly of Hudson-street, provided the assent of the corporation of said city be first obtained for such location; but the said railroad company shall not infringe upon the rights or privileges of the Harlem Railroad Company, heretofore incorporated, by using any track or line of the road contiguous to or along side of their track; nor by running nearer to any such track on the island of New-York, than the Eighth avenue and Hudson-street in the city of New-York; nor shall the said Hudson River Railroad Company locate any part of their line east of or within one mile of the said Harlem railroad, in the county of Westchester. Nor shall the said Hudson River Railroad Company locate any part of their line or lines upon a grade exceeding twenty-five feet to the mile.

Location and
track of road
in the city of
New-York.

Additional
subscriptions
to stock.

§ 5. If the full amount of three millions of dollars shall not be subscribed within thirty days after the opening of the books, then it shall be lawful for the directors to open the subscription books, from time to time, until the whole amount shall have been subscribed. The directors shall receive no subscription, unless five dollars on each share subscribed for be paid in cash at the time of subscribing; nor shall they issue any certificate of stock before ten dollars shall have been paid in cash, upon each share named in the certificate; unless the whole amount of three millions of dollars be subscribed, and ten per cent paid thereon, within one year from

the first day of March eighteen hundred and forty six, and unless said corporation shall on or before the tenth day of March eighteen hundred and forty-seven, file a list or inventory of the subscribers for the said stock, with the names and amounts of each subscriber, with the comptroller of this state, then this act shall be null and void.

§ 6. The said directors, and each board of directors hereafter to be chosen, shall choose out of their own number one president and one vice-president, and in case of the death, resignation or absence of the president, the vice-president shall preside; and in case of the death or resignation of the president, vice-president or any director, all vacancies shall be filled for the remainder of the term by the board of directors; and in the absence of the president and vice-president, the board of directors may appoint a president pro tempore. The resignation of any director shall be in writing, and directed to the presiding officer of the board of directors, and filed by the secretary of the said company.

President and vice-president to be appointed.

§ 7. In case it should at any time happen that an election of directors shall not be made on a day when it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but such election may be held at any other time within sixty days thereafter; and the directors chosen for the year preceding, shall hold their offices until such election shall be made.

Saving clause.

§ 8. The directors, of whom seven shall be a quorum, shall have full power to make and prescribe such by-laws, rules and regulations, as to them shall seem needful and proper, touching the subscription, distribution and management of the stock, property, estate and effects of the said corporation, the transfer of shares, and touching the duties and conduct of their officers and stewards, and the election of directors, and all other matters whatever which may appertain to the concerns of the said corporation; and shall also have power to appoint a secretary, and as many agents and servants as to them shall seem meet; and to establish and fix such salaries and allowances as to the said board shall appear proper.

By laws.

§ 9. The said corporation is hereby empowered to purchase, receive and hold, in fee simple, such real estate and other property as may be necessary in accomplishing the objects for which this corporation is granted, and may also receive, hold and take such voluntary grants and donations of real estate and other property as shall be made to the said corporation, to aid in the construction, maintenance and accommodation of said railroad and ways, which real estate shall be held and used for those purposes only.

Real estate may be purchased.

§ 10. This corporation is hereby empowered, by their engineers or agents, to enter upon any land or water for the

Surveys may be made and land or water

may be entered upon and used.

purpose of making surveys, and may, by their engineers or agents, enter upon, take possession of and use all such lands and real estate as may be necessary for the construction and maintenance of the said railroad and the accommodations required appertaining thereto ; but all real estate thus entered upon, which is not voluntarily granted or given, shall be purchased by the said corporation of the owner or owners of the same, at a price to be mutually agreed upon between them ; and in case an agreement cannot be made between the said corporation and the owners of any property which may be required for the said purposes, or which may be affected by any operation connected therewith, the said corporation or any party aggrieved, shall present a petition to the first or other judge of the county courts or of any court of record in the county in which such lands may lie, setting forth the necessity of taking such land for the purpose of making and maintaining said road, or that such land is affected by some operation connected therewith, and the failure to obtain the same, or adjust the damages by agreement, with the reasons thereof, and the name and residence of each owner, if known to the officers or agents of such corporation, and if not known, the fact of such names being unknown, and the means that have been taken to ascertain the same, together with a map, plan or profile of the land thus required to be taken, and of the said road, and praying for the appointment of a jury of appraisers. The said judge shall thereupon direct reasonable notice in writing of not less than fourteen days, to be given to the owners of such lands, of the time of drawing such jury, which shall be at the clerk's office in the county where the lands are situated ; and upon due proof of such notice and hearing, the parties or such of them as may attend and object to the regularity of the proceedings on the part of the said corporation, such judge, together with the clerk of said county, shall draw from the grand jury box of the county, the names of eighteen competent and disinterested jurors, who, by an order to be made by such judge, and entered in the common rule book of the court of common pleas, shall be appointed appraisers of the damages to be sustained by such owner or owners ; and should any person or persons so designated, refuse or neglect to serve on such jury, or be disqualified, the vacancy or vacancies shall be filled by the said judge in the manner aforesaid. Such appraisers, before entering upon the duties of their office, shall take the oath prescribed by the sixth article of the constitution. The said judge shall appoint a time and place for said appraisers to meet, and shall cause at least ten days' notice to be given to such owners, if known, by a notice in writing, to be served upon such owners, or in case of absence, to be

left at their usual place of residence, if within the county, and if not, to be put up in some conspicuous place on the premises, to be appraised, and if not known, to be published, as the judge shall deem proper and reasonable, setting forth the time and place of meeting for the purpose of completing said appraisement ; and shall also cause due notice to be given to the said appraisers, of the time and place of meeting ; and said appraisers, or twelve of them, in case the whole shall not appear, shall at such time proceed to view the premises ; they shall have power to examine witnesses under oath, which oath any of said appraisers is hereby authorized to administer ; and shall, without fear, favor or partiality, assess the value of the land taken, and the damages such owners may sustain by the taking of their lands, by injury to buildings, and in the construction of such road, or by any operation connected therewith, without any deduction on account of any real or supposed benefit or advantage which such owners of such lands may derive by the construction of said road. They shall make a certificate or inquisition of their appraisement, specifying the items appraised, which shall be signed by a majority of the appraisers who have viewed the premises and been present at the hearing of the parties aforesaid, and shall contain a minute and accurate description of the land appraised, with a map thereof, and shall present the same, with the testimony taken, to the county clerk, who shall file them in his office. The ballots drawn from the jury box shall be replaced by the county clerk. Upon proof to the said judge, within thirty days after the filing of the inquisition of the jury, of payment to the owner or owners, or of the depositing to their credit in such bank as the judge shall direct, of the amount of such appraisement, and of all costs and expenses attending it, including reasonable counsel fees, to be taxed and certified by said judge. In case such owner shall be a married woman, infant, idiot, insane, non-resident of this state or unknown, or shall refuse to receive such amount, with costs, expenses and counsel fees, on a tender thereof, the judge shall make an order, particularly describing the land and reciting the appraisement and the mode of making it ; which order shall be recorded in the office of the clerk of the county in which the land is situated, or of the register of deeds in the city of New-York, if such land should be located therein, in the like manner as if the same were a deed of conveyance ; and the said corporation shall thereupon become seized in fee of such land, during the continuance of the corporation, by this or any subsequent act, and may take, hold and use the same for the purposes of said road, and shall thereupon be discharged from all claims for damages, by reason of any matter in the

said petition ; and if at any time after any appraisement of damages under this act, or purchase by or donation to the said corporation of any lands, it shall appear that the title acquired to any portion of the ground taken, purchased or granted for the track of said road, or for the use of said corporation, shall fail, the said corporation are authorized to proceed anew, in the same manner as above set forth, to perfect the title to the same, by an order to be granted for such purpose by the judge aforesaid ; provided, however, if upon proceeding anew to ascertain the said damages, as aforesaid, the said corporation shall give such bond with such security as the said judge shall direct, conditioned for the payment of such damages, when duly ascertained, according to the provisions of this act, the said lands may be appropriated to the use of the said company by an order for that purpose to be granted by said judge; and thereupon the said corporation may enter upon and become possessed of and use the same for the purposes of this act. The compensation of the appraisers shall be determined by the said judge, at a sum not exceeding two dollars per day, in addition to their reasonable disbursements, to be paid by the said corporation. Whenever the verdict of the appraisers shall not exceed the sum tendered by the corporation for the land proposed to be taken, in such case the corporation shall not be compelled to pay any costs or expenses to the owner of the property appraised, except to such owners as named in the succeeding section.

Provision as respects married women, &c.

§ 11. In case any married woman, infant, idiot, or insane person, or non-resident of this state, or unknown owner, who shall not appear after such notice, on the appointment of appraisers, shall be interested in any such land or real estate, the said judge shall appoint some competent and disinterested person to appear before the said appraisers, and act for and in behalf of such married woman, infant, idiot, insane person, non-resident and unknown owner or owners.

Number of directors and how to be chosen.

§ 12. The board of directors of this corporation shall consist of thirteen persons, who shall be stockholders, and citizens of the United States, holding each not less than eighty shares of the capital stock of said company, and the office of any director who shall not at any time be a stockholder to that amount, shall thereupon be deemed vacated ; and those hereafter to be chosen shall hold their office until the second Monday in June, in the year next ensuing their election, or until successors shall be appointed ; and every election of directors hereafter to be chosen shall be annually, on the second Monday of June in each and every year, at such time and place as the directors shall appoint, giving thirty days' previous notice in one of the public newspapers printed in

each of the cities of New-York and Albany respectively. Every such election shall be held under the inspection of three stockholders, not being directors, and shall be by ballot, a plurality of votes constituting a choice, and each stockholder shall be entitled to one vote on each share of such capital stock, of which he is the owner at the time of closing the books previous to such election, and no person shall be entitled to vote at any such election by proxy.

§ 13. The said corporation is hereby authorized to construct, erect, build and make and use, a single, double, or treble railroad or ways, of suitable width and dimensions, to be determined by the said corporation, on the line, course, or way designated by the directors as aforesaid, as the line, course or way whereon to construct, build or make the same; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, subject nevertheless to the control and direction of the legislature, or of any officer appointed by it for that purpose; and shall have power to erect and maintain toll houses and other buildings, for the accommodation of their concerns, as they may deem suitable to their interests.

Road how to
be constructed.

§ 14. Whenever it shall be necessary for the construction of their single, double or treble railroad or way, to intersect or cross any stream of water, or water courses, or any road or highway, between the places prescribed by the first section of this act, it shall be lawful for the said corporation to construct their way or ways across or upon the same; but the corporation shall restore the stream, or water course, or road or highway, thus intersected, to its former state in a sufficient manner so as not to have impaired its usefulness. And it shall also be lawful for the company hereby incorporated to cross, intersect, join or unite with any railroad, to connect with and cross the tracks on grounds of any other road on the route, with single, double or treble tracks, with the necessary turnouts and sidings, without removing their permanent buildings now erected; and if the two boards of directors cannot agree as to the point and manner of said crossings, and the damages therefor, then it shall be at such points and upon such terms as the court of chancery of this state shall determine to be equitable and just between the said companies.

Crossing
streams or
highways.

§ 15. The said corporation is hereby authorized to build or erect a bridge over the Spuytenduyvel creek and other navigable streams or inlets, for the passage of the said road or ways, from or to the city of New-York. Such bridges shall be substantially constructed, and shall contain a draw of sufficient width to admit the passage of vessels adapted

Bridges may
be erected.

to the navigation of said river, streams or inlet, with standing masts, and shall be so attended as not to obstruct, delay or hinder, the progress of any vessel navigating said river. They are also required to construct such bridges as may be necessary to provide for the free passage of such vessels and boats as heretofore have or now can pass into and from the same, the bays that may be crossed by said railroad; and if any wharf or dock shall be cut off by the said railroad, the said company shall extend or so improve the same as to restore it to its former usefulness, so far as it may be practicable to do so. And the owner or owners thereof are hereby authorized to occupy the river front, outside of said railroad, for the erection and use of wharves or docks.

Road how to
be crossed.

§ 16. It shall be lawful for the owners of the land over which such railroad shall be constructed, to cross the said railroad, at some convenient place or places, with his or their servants, cattle, teams and carriages, for the purpose of using and managing their respective farms, over which the said railroad shall pass, doing no injury or damage to said railroad. In all cases where such railroad shall intersect the lands of any individual, or pass between such lands and the usual place of access to the river, and cannot be conveniently crossed by reason of high embankments, deep cuts or otherwise, the said corporation shall at their own expense construct and sustain convenient passes or roads across or under the railroad, for the passage of persons, cattle, carriages and teams, for the purposes of farming or managing such lands, and giving to them their usual access to the river.

Tolls to be
charged and
received.

§ 17. It shall be lawful for the company hereby incorporated, from time to time, to fix, regulate and receive the tolls and charges by them to be received for transporting property or persons, on the single, double or treble railroad or ways aforesaid; but the said corporation shall not charge or receive a greater sum for way travel than at the rate of two and a half cents per mile for the transportation of any passenger and his ordinary baggage, during the winter, and two cents therefor per mile during the residue of the year; nor for the through travel at any time any greater sum therefor, than three dollars.

Penalty.

§ 18. If any person or persons shall willfully and maliciously do, or cause to be done, any act or acts whatever, whereby any building, construction or work of the said corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed or impaired, weakened, injured or destroyed, the person or persons so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the said corpora-

tion double the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said corporation, with costs of suit, by action of debt.

§ 19. The said corporation hereby created, is authorized and empowered to locate, secure titles, and construct and use their road in such sections as they may deem most eligible, and as fast as they may obtain means for so doing, within the time limited by law for the construction of the said road. Road to be located and titles secured

§ 20. It shall be lawful for the directors to require payment of the sums to be subscribed to the capital stock, at such time and times, and in such proportions, and on such conditions as they shall deem fit, giving at least thirty days' previous notice of such required payments, in a public newspaper, published in the cities of New-York and Albany respectively, and in each of the counties of Westchester, Putnam, Dutchess, Columbia and Rensselaer; and the company shall have the right to forfeit for its use and benefit all shares of stock together with all previous payments made thereon on which the instalments or payments, thus required, are not duly made. All stock thus forfeited may be re-issued by the directors in such manner and on such terms as they may deem to be for the interest of the company. Calls on stockholders.

§ 21. The said company may borrow, from time to time, after having called in and expended two millions of dollars of the capital stock of the said company, such further sum or sums of money as may be necessary to complete said road, in the whole not exceeding an amount which added to the whole amount of their capital actually subscribed, shall together, be equal to the sum of six millions of dollars, and they are authorized to secure such loans by pledging and mortgaging the real estate of said company, or in such other manner as they shall deem expedient except by pledge or mortgage of their personal property; but such debt shall not at any time exceed a sum which shall be five hundred thousand dollars less than the amount of capital stock, actually called in and expended by the said corporation, in the construction of said railroad; and all moneys so borrowed shall be applied to the construction of said railroad, and the putting the same into operation, and the directors may confer upon the holders of any bond they may issue, for any money so borrowed for the use of said road, the right to convert the principal due thereon into stock of the said company at any time not exceeding five years from the date of said bond, under such regulations as the directors may see fit to adopt; and for such purpose the said corporation are authorized to increase its capital stock to the amount so borrowed whenever the persons, or any of them, to whom such money is due shall elect to convert the same into stock; provided, however, Money may be borrowed.

that the whole capital of said company, shall in no case exceed six millions of dollars. Nor shall the whole amount of money borrowed by the authority of this section exceed two millions of dollars ; and provided, further, that said corporation shall in no case borrow any money under this section at any time when the aggregate amount of all the debts of said corporation and valid claims against the same, due or to become due, exclusive of all sums that may have been borrowed under this section shall exceed twenty-five thousand dollars.

General powers.

§ 22. The said corporation shall possess the general powers, and be subject to the general restrictions and liabilities prescribed by such parts of the third title of the eighteenth chapter of the first part of the Revised Statutes as are not repealed.

Regulations to be made as to running the cars on road.

§ 23. The said company shall, at the regular times, when they start or run their cars, be required to supply sufficient accommodations for public convenience, and shall carry and transport all the passengers and their property, or either, for those who demand the same at the place of starting, within a reasonable time previous thereto, or where the car or cars of the way train shall pass at the junction of any other railroad, or at any point where a siding shall be established for the accommodation of any part of the country, on the due payment of customary tolls provided for by this act and the by-laws of said corporation ; and in case the said company or its agent shall refuse or neglect so to do, the said corporation shall then be liable to the person or persons aggrieved, for such amount of actual damages as may have been sustained by him or them, to be recovered by suit at law with costs. This corporation, however, shall not be liable for cases of refusal, when from extraordinary circumstances, a temporary and unusually large amount of business may be suddenly presented, or when accidental delay of a train may endanger collision with another train, by stopping at any such siding.

ences to be erected on sides of road.

§ 24. The said corporation, before running any cars upon the said railroad, shall erect and thereafter maintain upon the sides thereof, except where the road shall intersect some public highway, a fence of such height and strength as is by law required, as a division fence between the owners of adjoining lands ; and shall make and keep in repair, wherever the same may be necessary upon the line of the said railroad, suitable guards to prevent cattle from running upon the same ; but this section shall not prevent persons owning or occupying lands adjoining the said road from erecting at proper and convenient places, where they may have occasion for crossing the said road for farming and other necessary purposes, suitable gates in the line of said fence, to facilitate such cross-

ing, and to be kept in repair by the person using the same ; this section however shall not be construed to require said corporation to erect fences, where the said railroad is constructed in the river, or under circumstances whereby it is inaccessible to cattle.

§ 25. The said company shall not enter upon nor take any lands which are in the use and occupation of the Albany and West Stockbridge Railroad Company incorporated by this state, for the purpose of the road or depots of such other company, without their consent ; nor shall they cross the lands and tracks of such company in such manner as to interfere with or incommode any buildings or fixtures of such company, or the convenient and beneficial use of such buildings, fixtures or tracks of such company for the transaction of their business. Restriction.

§ 26. It shall be the duty of the said railroad to unite its track with the track of the Troy and Greenbush railroad at its southern terminus, or such other point as shall be considered most eligible for the formation of a convenient and efficient connection between the two said railroads ; and in case the two companies shall not agree as to the point of connection and manner, then the point and the manner shall be determined by three commissioners to be appointed by the supreme court of this state. Road to be united with Troy and Greenbush railroad.

§ 27. The directors of said company shall make an annual report, in detail, of their proceedings and expenditures, verified by the affidavit of at least two of them, which report shall be filed in the office of secretary of state ; and in like manner shall, at the expiration of each year after the completion of said road, file in said office a detailed statement of tolls received on such road and of all moneys expended by said company for repairs or otherwise for the purpose of said road. Annual report to be made.

§ 28. If consequential damages shall happen after the construction of said road, not foreseen by the appraisers, and not taken into the estimate on the first appraisal, or in the amount paid by the said company when the lands have been purchased, any person whose lands or buildings shall be injured by such consequential damages, may apply for and have the same appraised in the manner provided by the tenth section of this act. Consequential damages

§ 29. Said railroad company upon being thereto required by the post-master-general of the United States, shall enter into contract with the United States in the usual form and with the usual conditions of such contracts for transporting the mails of the United States upon its railroad for such compensation as shall be deemed reasonable, not exceeding the sum provided by an act of Congress, entitled " An act to re- Company to contract to carry the U. S. mail.

duce the rates of postage, and to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845 ; and if said railroad company shall neglect or refuse to enter into such contract upon being so required, shall forfeit and pay to the people of this state, one hundred dollars for every day it shall so neglect or refuse.

Residence of
directors.

§ 30. A majority of the directors of the railroad company hereby incorporated, shall reside in the counties in which the railroad shall be constructed, and the same person shall not be a director in any other railroad company in this state.

Penalty for
being intoxicated.

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of this company, or while acting as the conductor of a car or train of cars on said railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished by imprisonment in the county jail, for a term not more than one year nor less than six months, in the discretion of the court.

Locomotives
to carry bells
to be rung.

§ 32. The said railroad company shall cause a bell of at least thirty pounds weight to be placed on each locomotive engine passing upon its road, and the said bell shall be rung at the distance of at least eighty rods from the place where the railroad of said company crosses any turnpike, highway or other public road or street, and shall be kept ringing until such engine has crossed such turnpike, highway, road or street. For every neglect or omission to comply with the provisions of this section, the said railroad company shall forfeit and pay to the people of this state the sum of two hundred and fifty dollars, and shall also be liable for all damages sustained by any person by reason of such neglect or omission.

Boards to be
kept up at
railroad
crossing with
inscriptions
thereon.

§ 33. The said railroad company, when required as hereinafter directed, shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across any turnpike, highway or other public road or street where the same is crossed by the said railroad ; such boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers ; and on each side of such boards be painted in capital letters of at least the size of ten inches each, the words " railroad crossing ; look out for the engine while the bell rings." The supervisor, or a majority of the commissioners of highways of any town, may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such town ; the president or a majority of the trustees of any village may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such village ; and

mayor or common council of any city may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other road or street in such city. The requirements to place and maintain such boards shall be in writing, and shall be served upon the president or secretary of said railroad company. If said railroad company shall neglect to erect such boards for ten days after such requirement shall be so served, or shall, at any time after their erection, neglect, for the space of three days, to maintain and keep them up, shall forfeit and pay to the people of this state, for every such neglect, the sum of five hundred dollars, and shall also be liable for all damages sustained by any person by reason of any such neglect.

§ 34. So much of the work of grading and constructing the said railroad through the lands owned by this state at the state prison at Mount Pleasant, as can, in the judgment of the inspectors of said prison, be done by the convicts, may be done by the convicts at the option of the inspectors, on terms to be paid by said company, not exceeding in price the amount paid for similar work on other portions of said road, and the construction of said road through said grounds shall be according to the mode determined by and under the superintendence and direction of the said inspectors, whether done by convict or other labor.

Grading how
to be made
at the Mount
Pleasant
State Prison.

§ 35. All the provisions of the act entitled "An act in relation to the contracts of rail road companies," passed May 13, 1845, shall be applicable to the company incorporated by this act.

Act of May
13, 1845 to
apply.

§ 36. The legislature may at any time alter or repeal this act.

Right to re-
peal.

CHAP. 217.

AN ACT to amend an act entitled, "*An act to incorporate the Fallsburgh and Liberty Turnpike Road Company.*"

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled, "An act to revive and amend the charter of the Fallsburgh and Liberty Turnpike Road Company," passed May 10, 1845, is hereby extended, and the duration of the charter of the said company is hereby continued in full force in all respects for the original term from the passage of this act. The said road shall be commenced within one year, and fully completed within three years from the passage of this act.

Time ex-
tended.

§ 2. This act shall take effect immediately.

CHAP. 218.

AN ACT further to amend an act entitled "*An act to incorporate the New-York Fire Insurance Company of the city of New-York,*" passed April 18, 1832.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

• Transporta-
tion and in-
land naviga-
tion.

§ 1. In addition to the powers now possessed by the New-York Fire Insurance Company of the city of New-York, the said company shall have power to make all and every insurance connected with risks of transportation and inland navigation, and the coasting trade of the United States; and may cause themselves to be re-insured.

Act when to
become obli-
gatory.

§ 2. This act shall not be obligatory upon the said corporation until it shall have signified its acceptance thereof, by filing a declaration to that effect, executed under the common seal of said company, and attested by the president and secretary, and filed in the office of the secretary of state of this state; and in case of such acceptance, it shall be signified within one year from the passage of this act.

Right to re-
peal.

§ 3. The legislature may at any time alter or repeal this act.

§ 4. This act shall take effect immediately.

CHAP. 219.

AN ACT for the benefit of the Howard Insurance Company of the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Calls may be
made on
stockholders.

§ 1. It shall be lawful for the Howard Insurance Company of New-York, the capital of which has become impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company, or at its election to make calls for such amounts as will make the capital of the company good to the amount of two hundred and fifty thousand dollars.

Provision in
case of refusal
or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chan-

cellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, or to the said sum of two hundred and fifty thousand dollars, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company, or to make up the said sum of two hundred and fifty thousand dollars, reducing in proportion to the par value of the shares of such company.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by, and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation that the said capital stock hath been made good by subscription and payment; or that the capital of the said company hath been made good to the amount of two hundred and fifty thousand dollars, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 6. This act shall take effect immediately.

Sections of
act of Feb.
12, 1836, to
apply.

Certificate of
amount of
capital to be
filed.

CHAP. 220.

AN ACT for the benefit of the Merchants' Fire Insurance Company.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Calls may be made on stockholders

§ 1. It shall be lawful for the Merchants' Fire Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of said company, may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply to this company.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain, among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it; the amount of unsatisfied debt or claim against it, and the amount of its capital actually paid in and invested, over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required, shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller;

and immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of capital to be filed.

§ 5. This act shall take effect immediately.

CHAP. 221.

AN ACT to change the corporate name of the "Mutual Insurance Company of the city of New-York," and to reduce its capital.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The corporate name of "The Mutual Insurance Company of the city of New-York," shall hereafter be The Knickerbocker Fire Insurance Company of New-York.

Name changed.

§ 2. Upon the filing of an affidavit according to the provisions of article first, title second, chapter eighteen, part first of the Revised Statutes, in regard to the formation of moneyed corporations, that the said company has remaining a capital amounting, according to the mode therein prescribed for ascertaining the surplus profits of such corporations, two hundred and eighty thousand dollars, the capital stock of the said company shall thereafter be two hundred and eighty thousand dollars, and the par value of the shares forty dollars each.

Affidavits to be filed.

§ 3. The president and directors of the said company may, at any time hereafter, increase the amount of the capital stock of said company to three hundred thousand dollars, by issuing certificates for five hundred additional shares of stock, of forty dollars each; and upon filing an affidavit as to the payment of such additional capital, according to the provisions of the Revised Statutes, the said company may proceed to transact business upon its increased capital.

Capital stock may be increased.

§ 4. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property in-

Sections of the act of Feb. 12, 1836 to apply.

As-
sent
to
be
filed
in
30
days.

sured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost, or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller and be filed in his office. And the legislature may at any time hereafter alter or repeal this act, and also the act entitled, "An act to incorporate the Mutual Insurance Company of the City of New-York," passed March 28th, 1809. And this act shall be void, unless the board of directors of the said company shall assent thereto within thirty days from the passage thereof, by a resolution duly passed by the said board, and shall file in the comptroller's office a copy of such resolution, authenticated by the signature of the president of the said company, and by its corporate seal.

§ 5. This act shall take effect immediately.

CHAP. 222.

AN ACT to reduce the capital stock of the Firemen's Insurance Company in the city of New-York, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Capital stock reduced.

§ 1. The capital stock of the Firemen's Insurance Company is hereby reduced to *hundred and fifty thousand dollars, and shall be divided into twelve thousand shares of seventeen dollars each.

Calls may be made on stockholders

§ 2. The original capital stock of said corporation having become impaired by losses occasioned by the fire of the nineteenth day of July last, it shall be lawful for the said corporation, within one year from the passage of this act, to make calls upon the stockholders for such amounts as will make their capital equal to the amount of the capital stock mentioned in the first section of this act.

Provision in case of refusal or neglect to pay.

§ 3. In case any stockholder shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said corporation to require the return of the original certificates of stock held by such

stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of said corporation may bear to the said reduced capital, paying for fractional parts of shares; and it shall further be lawful for the said corporation to create new stock, dispose of the same, and issue certificates for any deficiency which may be occasioned by such refusal or neglect of stockholders as aforesaid to make the capital stock the full sum mentioned in the first section of this act.

§ 4. The eleventh, thirteenth and fourteenth sections of the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company, and the statement required by the said thirteenth section, shall be verified by the oath of the president and secretary of the said company, and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Sections of
the act of
Feb. 12, 1836
to apply.

§ 5. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such corporation, and verified by their oath or affirmation, that the actual capital of said corporation has been made by subscription, and payment to amount to the sum mentioned in the first section of this act, the amount mentioned in said first section shall be deemed and taken as the capital stock of said corporation.

Certificate of
amount of
stock to be
filed.

§ 6. This act shall take effect immediately.

CHAP. 223.

AN ACT for the benefit of *The New-York Guardian Insurance Company in the city of New-York.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1 It shall be lawful for the New-York Guardian Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed May¹⁹ 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it, the amount of unsatisfied debt or claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least

twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller: And immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of stock to be filed.

§ 5. This act shall take effect immediately.

CHAP. 224.

AN ACT for the benefit of the Jefferson Insurance Company in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the Jefferson Insurance Company in the city of New-York, the capital of which has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Calls may be made on stockholders

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for the fractional parts of shares, and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Provision in case of refusal or neglect to pay.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company ; and the statement required by the said thirteenth section, shall be verified by the oath of

Sections of the act of Feb. 12, 1836 to apply.

duce the rates of postage, and to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845 ; and if said railroad company shall neglect or refuse to enter into such contract upon being so required, shall forfeit and pay to the people of this state, one hundred dollars for every day it shall so neglect or refuse.

Residence of
directors.

§ 30. A majority of the directors of the railroad company hereby incorporated, shall reside in the counties in which the railroad shall be constructed, and the same person shall not be a director in any other railroad company in this state.

Penalty for
being intoxi-
cated.

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of this company, or while acting as the conductor of a car or train of cars on said railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished by imprisonment in the county jail, for a term not more than one year nor less than six months, in the discretion of the court.

Locomotives
to carry bells
to be rung.

§ 32. The said railroad company shall cause a bell of at least thirty pounds weight to be placed on each locomotive engine passing upon its road, and the said bell shall be rung at the distance of at least eighty rods from the place where the railroad of said company crosses any turnpike, highway or other public road or street, and shall be kept ringing until such engine has crossed such turnpike, highway, road or street. For every neglect or omission to comply with the provisions of this section, the said railroad company shall forfeit and pay to the people of this state the sum of two hundred and fifty dollars, and shall also be liable for all damages sustained by any person by reason of such neglect or omission.

Boards to be
kept up at
railroad
crossing with
inscriptions
thereon.

§ 33. The said railroad company, when required as hereinafter directed, shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across any turnpike, highway or other public road or street where the same is crossed by the said railroad ; such boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers ; and on each side of such boards be painted in capital letters of at least the size of ten inches each, the words " railroad crossing ; look out for the engine while the bell rings." The supervisor, or a majority of the commissioners of highways of any town, may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such town ; the president or a majority of the trustees of any village may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such village ; and

mayor or common council of any city may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other road or street in such city. The requirements to place and maintain such boards shall be in writing, and shall be served upon the president or secretary of said railroad company. If said railroad company shall neglect to erect such boards for ten days after such requirement shall be so served, or shall, at any time after their erection, neglect, for the space of three days, to maintain and keep them up, shall forfeit and pay to the people of this state, for every such neglect, the sum of five hundred dollars, and shall also be liable for all damages sustained by any person by reason of any such neglect.

§ 34. So much of the work of grading and constructing the said railroad through the lands owned by this state at the state prison at Mount Pleasant, as can, in the judgment of the inspectors of said prison, be done by the convicts, may be done by the convicts at the option of the inspectors, on terms to be paid by said company, not exceeding in price the amount paid for similar work on other portions of said road, and the construction of said road through said grounds shall be according to the mode determined by and under the superintendence and direction of the said inspectors, whether done by convict or other labor.

Grading how to be made at the Mount Pleasant State Prison.

§ 35. All the provisions of the act entitled "An act in relation to the contracts of rail road companies," passed May 13, 1845, shall be applicable to the company incorporated by this act.

Act of May 13, 1845 to apply.

§ 36. The legislature may at any time alter or repeal this act.

Right to repeal.

CHAP. 217.

AN ACT to amend an act entitled, "*An act to incorporate the Fallsburgh and Liberty Turnpike Road Company.*"

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled, "An act to revive and amend the charter of the Fallsburgh and Liberty Turnpike Road Company," passed May 10, 1845, is hereby extended, and the duration of the charter of the said company is hereby continued in full force in all respects for the original term from the passage of this act. The said road shall be commenced within one year, and fully completed within three years from the passage of this act.

Time extended.

§ 2. This act shall take effect immediately.

CHAP. 218.

AN ACT further to amend an act entitled "*An act to incorporate the New-York Fire Insurance Company of the city of New-York,*" passed April 18, 1832.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Transportation and inland navigation.

§ 1. In addition to the powers now possessed by the New-York Fire Insurance Company of the city of New-York, the said company shall have power to make all and every insurance connected with risks of transportation and inland navigation, and the coasting trade of the United States, and may cause themselves to be re-insured.

Act when to become obligatory.

§ 2. This act shall not be obligatory upon the said corporation until it shall have signified its acceptance thereof, by filing a declaration to that effect, executed under the common seal of said company, and attested by the president and secretary, and filed in the office of the secretary of state of this state; and in case of such acceptance, it shall be signified within one year from the passage of this act.

Right to repeal.

§ 3. The legislature may at any time alter or repeal this act.

§ 4. This act shall take effect immediately.

CHAP. 219.

AN ACT for the benefit of the Howard Insurance Company of the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders.

§ 1. It shall be lawful for the Howard Insurance Company of New-York, the capital of which has become impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company, or at its election to make calls for such amounts as will make the capital of the company good to the amount of two hundred and fifty thousand dollars.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chan-

cellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, or to the said sum of two hundred and fifty thousand dollars, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company, or to make up the said sum of two hundred and fifty thousand dollars, reducing in proportion to the par value of the shares of such company.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by, and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation that the said capital stock hath been made good by subscription and payment; or that the capital of the said company hath been made good to the amount of two hundred and fifty thousand dollars, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 6. This act shall take effect immediately.

*Sections of
act of Feb.
12, 1836, to
apply.*

*Certificate of
amount of
capital to be
filed.*

CHAP. 220.

AN ACT for the benefit of the Merchants' Fire Insurance Company.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1. It shall be lawful for the Merchants' Fire Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of said company, may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply to this company.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain, among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it; the amount of unsatisfied debt or claim against it, and the amount of its capital actually paid in and invested, over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required, shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller;

and immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of capital to be filed.

§ 5. This act shall take effect immediately.

CHAP. 221.

AN ACT to change the corporate name of the "Mutual Insurance Company of the city of New-York," and to reduce its capital.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The corporate name of "The Mutual Insurance Company of the city of New-York," shall hereafter be The Knickerbocker Fire Insurance Company of New-York.

Name changed.

§ 2. Upon the filing of an affidavit according to the provisions of article first, title second, chapter eighteen, part first of the Revised Statutes, in regard to the formation of moneyed corporations, that the said company has remaining a capital amounting, according to the mode therein prescribed for ascertaining the surplus profits of such corporations, two hundred and eighty thousand dollars, the capital stock of the said company shall thereafter be two hundred and eighty thousand dollars, and the par value of the shares forty dollars each.

Affidavits to be filed.

§ 3. The president and directors of the said company may, at any time hereafter, increase the amount of the capital stock of said company to three hundred thousand dollars, by issuing certificates for five hundred additional shares of stock, of forty dollars each; and upon filing an affidavit as to the payment of such additional capital, according to the provisions of the Revised Statutes, the said company may proceed to transact business upon its increased capital.

Capital stock may be increased.

§ 4. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property in-

Sections of the act of Feb. 12, 1836 to apply.

sured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost, or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller and be filed in his office. And the legislature may at any time hereafter alter or repeal this act, and also the act entitled, "An act to incorporate the Mutual Insurance Company of the City of New-York," passed March 28th, 1809. And this act shall be void, unless the board of directors of the said company shall assent thereto within thirty days from the passage thereof, by a resolution duly passed by the said board, and shall file in the comptroller's office a copy of such resolution, authenticated by the signature of the president of the said company, and by its corporate seal.

Assent to be
filed in 30
days.

§ 5. This act shall take effect immediately.

CHAP. 222.

AN ACT to reduce the capital stock of the Firemen's Insurance Company in the city of New-York, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Capital stock
reduced.

§ 1. The capital stock of the Firemen's Insurance Company is hereby reduced to *hundred and fifty thousand dollars, and shall be divided into twelve thousand shares of seventeen dollars each.

Calls may be
made on
stockholders

§ 2. The original capital stock of said corporation having become impaired by losses occasioned by the fire of the nineteenth day of July last, it shall be lawful for the said corporation, within one year from the passage of this act, to make calls upon the stockholders for such amounts as will make their capital equal to the amount of the capital stock mentioned in the first section of this act.

Provision in
case of refusal
or neglect to pay.

§ 3. In case any stockholder shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said corporation to require the return of the original certificates of stock held by such

stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of said corporation may bear to the said reduced capital, paying for fractional parts of shares; and it shall further be lawful for the said corporation to create new stock, dispose of the same, and issue certificates for any deficiency which may be occasioned by such refusal or neglect of stockholders as aforesaid to make the capital stock the full sum mentioned in the first section of this act.

§ 4. The eleventh, thirteenth and fourteenth sections of the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company, and the statement required by the said thirteenth section, shall be verified by the oath of the president and secretary of the said company, and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Sections of
the act of
Feb. 12, 1836
to apply.

§ 5. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such corporation, and verified by their oath or affirmation, that the actual capital of said corporation has been made by subscription, and payment to amount to the sum mentioned in the first section of this act, the amount mentioned in said first section shall be deemed and taken as the capital stock of said corporation.

Certificate of
amount of
stock to be
filed.

§ 6. This act shall take effect immediately.

CHAP. 223.

AN ACT for the benefit of *The New-York Guardian Insurance Company in the city of New-York.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1 It shall be lawful for the New-York Guardian Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

Provision in case of refusal or neglect to pay

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed May¹² 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it, the amount of unsatisfied debt or claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least

† So in the original. [It should be February.]

twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller: And immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of stock to be filed.

§ 5. This act shall take effect immediately.

CHAP. 224.

AN ACT for the benefit of the Jefferson Insurance Company in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the Jefferson Insurance Company in the city of New-York, the capital of which has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Calls may be made on stockholders

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for the fractional parts of shares, and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Provision in case of refusal or neglect to pay.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of

Sections of the act of Feb. 12, 1836 to apply.

duce the rates of postage, and to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845 ; and if said railroad company shall neglect or refuse to enter into such contract upon being so required, shall forfeit and pay to the people of this state, one hundred dollars for every day it shall so neglect or refuse.

Residence of
directors.

§ 30. A majority of the directors of the railroad company hereby incorporated, shall reside in the counties in which the railroad shall be constructed, and the same person shall not be a director in any other railroad company in this state.

Penalty for
being intoxi-
cated.

§ 31. If any person shall, while in charge of a locomotive engine running upon the railroad of this company, or while acting as the conductor of a car or train of cars on said railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished by imprisonment in the county jail, for a term not more than one year nor less than six months, in the discretion of the court.

Locomotives
to carry bells
to be rung.

§ 32. The said railroad company shall cause a bell of at least thirty pounds weight to be placed on each locomotive engine passing upon its road, and the said bell shall be rung at the distance of at least eighty rods from the place where the railroad of said company crosses any turnpike, highway or other public road or street, and shall be kept ringing until such engine has crossed such turnpike, highway, road or street. For every neglect or omission to comply with the provisions of this section, the said railroad company shall forfeit and pay to the people of this state the sum of two hundred and fifty dollars, and shall also be liable for all damages sustained by any person by reason of such neglect or omission.

Boards to be
kept up at
railroad
crossing with
inscriptions
thereon.

§ 33. The said railroad company, when required as hereinafter directed, shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across any turnpike, highway or other public road or street where the same is crossed by the said railroad ; such boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers ; and on each side of such boards be painted in capital letters of at least the size of ten inches each, the words " railroad crossing ; look out for the engine while the bell rings." The supervisor, or a majority of the commissioners of highways of any town, may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such town ; the president or a majority of the trustees of any village may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other public road or street in such village ; and

mayor or common council of any city may require such boards to be so placed and maintained where said railroad crosses any turnpike, highway or other road or street in such city. The requirements to place and maintain such boards shall be in writing, and shall be served upon the president or secretary of said railroad company. If said railroad company shall neglect to erect such boards for ten days after such requirement shall be so served, or shall, at any time after their erection, neglect, for the space of three days, to maintain and keep them up, shall forfeit and pay to the people of this state, for every such neglect, the sum of five hundred dollars, and shall also be liable for all damages sustained by any person by reason of any such neglect.

§ 34. So much of the work of grading and constructing the said railroad through the lands owned by this state at the state prison at Mount Pleasant, as can, in the judgment of the inspectors of said prison, be done by the convicts, may be done by the convicts at the option of the inspectors, on terms to be paid by said company, not exceeding in price the amount paid for similar work on other portions of said road, and the construction of said road through said grounds shall be according to the mode determined by and under the superintendence and direction of the said inspectors, whether done by convict or other labor.

Grading how to be made at the Mount Pleasant State Prison.

§ 35. All the provisions of the act entitled "An act in relation to the contracts of rail road companies," passed May 13, 1845, shall be applicable to the company incorporated by this act.

Act of May 13, 1845 to apply.

§ 36. The legislature may at any time alter or repeal this act.

Right to repeal.

CHAP. 217.

AN ACT to amend an act entitled, "An act to incorporate the Fallsburgh and Liberty Turnpike Road Company."

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled, "An act to revive and amend the charter of the Fallsburgh and Liberty Turnpike Road Company," passed May 10, 1845, is hereby extended, and the duration of the charter of the said company is hereby continued in full force in all respects for the original term from the passage of this act. The said road shall be commenced within one year, and fully completed within three years from the passage of this act.

Time extended.

§ 2. This act shall take effect immediately.

CHAP. 218.

AN ACT *further to amend an act entitled "An act to incorporate the New-York Fire Insurance Company of the city of New-York," passed April 18, 1832.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Transportation and inland navigation.

§ 1. In addition to the powers now possessed by the New-York Fire Insurance Company of the city of New-York, the said company shall have power to make all and every insurance connected with risks of transportation and inland navigation, and the coasting trade of the United States; and may cause themselves to be re-insured.

Act when to become obligatory.

§ 2. This act shall not be obligatory upon the said corporation until it shall have signified its acceptance thereof, by filing a declaration to that effect, executed under the common seal of said company, and attested by the president and secretary, and filed in the office of the secretary of state of this state; and in case of such acceptance, it shall be signified within one year from the passage of this act.

Right to repeal.

§ 3. The legislature may at any time alter or repeal this act.

§ 4. This act shall take effect immediately.

CHAP. 219.

AN ACT *for the benefit of the Howard Insurance Company of the city of New-York.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders.

§ 1. It shall be lawful for the Howard Insurance Company of New-York, the capital of which has become impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company, or at its election to make calls for such amounts as will make the capital of the company good to the amount of two hundred and fifty thousand dollars.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chan-

cellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, or to the said sum of two hundred and fifty thousand dollars, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company, or to make up the said sum of two hundred and fifty thousand dollars, reducing in proportion to the par value of the shares of such company.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by, and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation that the said capital stock hath been made good by subscription and payment; or that the capital of the said company hath been made good to the amount of two hundred and fifty thousand dollars, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 6. This act shall take effect immediately.

Sections of
act of Feb.
12, 1836, to
apply.

Certificate of
amount of
capital to be
filed.

CHAP. 220.

AN ACT for the benefit of the Merchants' Fire Insurance Company.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1. It shall be lawful for the Merchants' Fire Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of said company, may be found to bear to the original capital of the said company, paying for fractional parts of shares ; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply to this company.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836 ; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company ; and shall contain, among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it ; the amount of unsatisfied debt or claim against it, and the amount of its capital actually paid in and invested, over and above any portion thereof that may have been lost or applied to the payment of its liabilities ; and the statement so required, shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller ;

and immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of capital to be filed.

§ 5. This act shall take effect immediately.

CHAP. 221.

AN ACT to change the corporate name of the "Mutual Insurance Company of the city of New-York," and to reduce its capital.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The corporate name of "The Mutual Insurance Company of the city of New-York," shall hereafter be The Knickerbocker Fire Insurance Company of New-York.

Name changed.

§ 2. Upon the filing of an affidavit according to the provisions of article first, title second, chapter eighteen, part first of the Revised Statutes, in regard to the formation of moneyed corporations, that the said company has remaining a capital amounting, according to the mode therein prescribed for ascertaining the surplus profits of such corporations, two hundred and eighty thousand dollars, the capital stock of the said company shall thereafter be two hundred and eighty thousand dollars, and the par value of the shares forty dollars each.

Affidavits to be filed.

§ 3. The president and directors of the said company may, at any time hereafter, increase the amount of the capital stock of said company to three hundred thousand dollars, by issuing certificates for five hundred additional shares of stock, of forty dollars each; and upon filing an affidavit as to the payment of such additional capital, according to the provisions of the Revised Statutes, the said company may proceed to transact business upon its increased capital.

Capital stock may be increased.

§ 4. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property in-

Sections of the act of Feb. 12, 1836 to apply.

sured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost, or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller and be filed in his office. And the legislature may at any time hereafter alter or repeal this act, and also the act entitled, "An act to incorporate the Mutual Insurance Company of the City of New-York," passed March 28th, 1809. And this act shall be void, unless the board of directors of the said company shall assent thereto within thirty days from the passage thereof, by a resolution duly passed by the said board, and shall file in the comptroller's office a copy of such resolution, authenticated by the signature of the president of the said company, and by its corporate seal.

Assent to be
filed in 30
days.

§ 5. This act shall take effect immediately.

CHAP. 222.

AN ACT to reduce the capital stock of the Firemen's Insurance Company in the city of New-York, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Capital stock
reduced.

§ 1. The capital stock of the Firemen's Insurance Company is hereby reduced to *hundred and fifty thousand dollars, and shall be divided into twelve thousand shares of seven-teen dollars each.

Calls may be
made on
stockholders

§ 2. The original capital stock of said corporation having become impaired by losses occasioned by the fire of the nineteenth day of July last, it shall be lawful for the said corporation, within one year from the passage of this act, to make calls upon the stockholders for such amounts as will make their capital equal to the amount of the capital stock mentioned in the first section of this act.

Provision in
case of refusal
or neglect to pay.

§ 3. In case any stockholder shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said corporation to require the return of the original certificates of stock held by such

stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of said corporation may bear to the said reduced capital, paying for fractional parts of shares; and it shall further be lawful for the said corporation to create new stock, dispose of the same, and issue certificates for any deficiency which may be occasioned by such refusal or neglect of stockholders as aforesaid to make the capital stock the full sum mentioned in the first section of this act.

§ 4. The eleventh, thirteenth and fourteenth sections of the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company, and the statement required by the said thirteenth section, shall be verified by the oath of the president and secretary of the said company, and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities: And the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller. And immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Sections of
the act of
Feb. 12, 1836
to apply.

§ 5. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such corporation, and verified by their oath or affirmation, that the actual capital of said corporation has been made by subscription, and payment to amount to the sum mentioned in the first section of this act, the amount mentioned in said first section shall be deemed and taken as the capital stock of said corporation.

Certificate of
amount of
stock to be
filed.

§ 6. This act shall take effect immediately.

CHAP. 223.

AN ACT for the benefit of *The New-York Guardian Insurance Company in the city of New-York.*

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1 It shall be lawful for the New-York Guardian Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Act of 1836 to apply.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities as are specified, granted and imposed in and by the act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed May* 12th, 1836; and the statement required by the thirteenth section of the said act shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it, the amount of unsatisfied debt or claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least

* So in the original. [It should be February.]

twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller: And immediately after such publication, evidence thereof shall be furnished by the said company to the comptroller and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate, signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of stock to be filed.

§ 5. This act shall take effect immediately.

CHAP. 224.

AN ACT for the benefit of the Jefferson Insurance Company in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the Jefferson Insurance Company in the city of New-York, the capital of which has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Calls may be made on stockholders

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for the fractional parts of shares, and to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the original capital of the company.

Provision in case of refusal or neglect to pay.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of

Sections of the act of Feb. 12, 1836 to apply.

the president or secretary of the said company, and shall contain, among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller, and immediately after such publication evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Certificate of amount of stock to be filed.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation that the said capital stock has been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 225.

AN ACT for the benefit of "*The Manhattan Fire Insurance Company,*" in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls may be made on stockholders

§ 1. It shall be lawful for "*The Manhattan Fire Insurance Company,*" in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in case of refusal or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given or by advertisement, in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholders may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of said company,

paying for fractional parts of shares, and create new stock, to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company.

§ 3. The said company shall enjoy the same privileges and franchises, and shall be subject to the same duties, restrictions and liabilities, as are specified, granted and imposed, in and by the act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836 ; and the statement required by the thirteenth section of the said act, shall be verified by the oath of the president or secretary of the said company, and shall contain, among other things, a statement of the amount of its liabilities, or of the unexpired insurances made by it, the amount of unsatisfied debt or claims against it, and the amount of its capital actually paid in and invested, over and above any portion thereof that may have been lost or applied in the payment of its liabilities ; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time of making the same to the comptroller ; and immediately after such publication evidence thereof shall be furnished by the said company to the comptroller, and be filed in his office.

Act of Feb. 12, 1836 to apply.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

Certificate of amount of stock to be filed.

§ 5. This act shall take effect immediately.

CHAP. 226.

AN ACT for the benefit of "The Eagle Fire Company of New-York," in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the Eagle Fire Company of New-York, in the city of New-York, the capital of which has become impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company, or at its election to make

Calls may be made on stockholders

calls for such amounts as will make the capital of the company good to the amount of three hundred thousand dollars.

Provision in
case of refusal
or neglect to pay.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, or to the said sum of three hundred thousand dollars, paying for fractional parts of shares, and to create new stock, to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company, or to make up the said sum of three hundred thousand dollars; reducing in proportion the par value of the shares of such company.

Sections of
the act of
Feb. 12, 1836
to apply.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12th, 1836, shall apply to the said company; and the statement required by the said thirteenth section shall be verified by the oath of the president or secretary of the said company, and shall contain, among other things, a statement of the amount of liabilities of the said company, or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested, over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller, and immediately after such publication evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Certificate of
amount of
stock to be
filed.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of the said company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, or that the capital of the said company hath been made good to the amount of three hundred thousand dollars, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 227.

AN ACT to regulate the expenditure of the highway tax in parts of Essex, Hamilton and Warren counties.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Townships numbers six, seven, eight, fifteen, sixteen, seventeen, thirty-one, thirty-two, thirty-three, and the north half of fourteen in Totten and Crossfield's purchase, in the counties of Essex, Hamilton and Warren, are hereby constituted a road district, and Abraham Wing, Cyrus Burnham, of Warren county, and Clark Rawson of the county of Essex, are hereby appointed commissioners to lay out roads and expend the highway tax assessed in said road district. Road district created.

§ 2. The county treasurers of the said counties respectively, shall pay over to the comptroller, when they make their annual return of the arrears of the taxes, the amount of any highway taxes assessed upon any of the said townships which may have been paid over to the said treasurers. Highway taxes to be paid to Comptroller.

§ 3. A sum equal to all of the admitted arrears of taxes assessed in said townships, together with any sums that may be paid to the comptroller, as provided by the second section of this act, shall be paid annually to the commissioners, or any two of them named in the first section of this act, out of the treasury of this state. Money to be paid to commissioners.

§ 4. The said commissioners shall have power to lay out roads in said road district, and expend the highway tax assessed in said district, as they shall deem best for the interest of the state. Roads to be laid out by them.

§ 5. The said commissioners shall give a bond with satisfactory sureties, to the treasurer of the county of Warren, in the sum of one thousand dollars, for the faithful performance of their duties, before entering upon the discharge thereof. They shall give bond.

§ 6. The said commissioners shall render to the treasurer of the county of Warren, annually before the first day of December, an exhibit of their expenditures with the necessary vouchers for the same. They shall account.

§ 7. Upon the death, removal, resignation or other disability, of any of the said commissioners, the treasurer of the county of Warren shall fill the vacancy. Vacancies how supplied

§ 8. The said commissioners shall be paid and receive their necessary expenses incurred in discharging their duties under this act. Commissioners to be paid.

Repeal.

§ 9. All acts inconsistent with the provisions this act are hereby repealed.

Duration of this act.

§ 10. The act shall take effect immediately, and shall continue in force three years.

CHAP. 228.

AN ACT for the relief of James C. Ott.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be paid to J. C. Ott.

§ 1. The commissioners of the canal fund are authorized and required to pay James C. Ott, or his legal representatives, the sum of five hundred and thirty-eight dollars and eighty-eight cents, out of any moneys in their hands unappropriated, for extra cement furnished by him in the construction of lock number twenty-nine on the Erie canal enlargement ; which said sum of five hundred and thirty-eight dollars and eighty-eight cents, has been awarded by the canal board to the said Ott, but was deducted from an award made by the said board in his behalf, under an act entitled "An act authorizing the canal board to grant a rehearing in certain cases," passed May 13th, 1845, on the ground that the said allowance for extra cement was made without the authority of law.

§ 2. This act shall take effect immediately.

CHAP. 229.

AN ACT for the relief of Isaac Jackson.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly do enact as follows :

Claim to be heard.

§ 1. The canal board are hereby authorized and required to hear the claim of Isaac Jackson, and to award him an allowance for change of cement in the construction of his work upon lock number thirty-five, on the Erie canal enlargement, to the same effect as if his claim therefor had been presented to said board within twelve months after doing said work ; and also to award to him such damages as he sustained by procuring, by direction of the canal commissioner or engineer, more stone, and which have not been sold for lock number twenty-six, than were required for the work, and for the transportation of the same, or any part, to lock number thirty-five on the Erie canal enlargement, to be paid by the

commissioners of the canal fund out of any money in their hands not otherwise appropriated.

§ 2. This act shall take effect immediately.

CHAP. 230.

AN ACT for the relief of Peter J. Wagner.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal appraisers are authorized and required to appraise the damages sustained, if any, by Peter J. Wagner, subject to an appeal to the canal board, in the same manner as in other cases, in consequence of an appropriation by the state of parts of lots numbers twenty-nine and thirty, in the village of Canajoharie, as laid down upon a map made by H. Loucks, esq., for the enlargement of the Erie canal. Damages to be appraised.

§ 2. The commissioners of the canal fund shall pay to the said Peter J. Wagner, or his legal representatives, such damages as shall be awarded by the canal appraisers, or the canal board, under the first section of this act, out of any moneys in their hands not otherwise appropriated. Money to be paid.

CHAP. 231.

AN ACT for the relief of Jannot C. Shippy.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of the canal fund are hereby authorized and required to pay to Jannot C. Shippy, or his legal representatives, the sum of one hundred and thirty-two dollars and seventy-five cents, and the interest from the twenty-sixth day of October, eighteen hundred and forty-two, out of any moneys in their hands not otherwise appropriated, being the amount due said Shippy for work done by him on section seven of the Black River canal, in the year eighteen hundred and forty-two, under the direction of the canal commissioners, for repairs. Money to be paid.

CHAP. 232.

AN ACT *authorizing the commissioners of highways of the town of Flatbush, in Kings county, to lay out a road of two rods in width.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Road to be
laid out in
New-Lots.

§ 1. The commissioners of highways of the town of Flatbush, in Kings county, are hereby authorized to lay out a highway in New-Lots in said town, of the width of two rods from the southerly side of the main road in New-Lots aforesaid, to the meadow fence by land of Jacob Cozine, over the land of Michael S. Duryea, on the easterly side thereof, adjoining land of Nicholas Blake and Cornelius D. Van Brunt, upon receiving a release in writing, under seal, from the said Michael S. Duryea of all claims for the land appropriated for such highway, and all damages consequent thereon.

To be opened
and worked.

§ 2. The said highway when so laid out, shall be opened and worked as a public highway.

Release to be
filed.

§ 3. The release of the said Michael S. Duryea, referred to in the first section of this act, shall be filed in the town clerk's office of said town, and shall forever preclude the said Michael S. Duryea, his heirs and assigns, from all claim for said land, and for all such damages as aforesaid.

Saving
clause.

§ 4. Nothing in this act contained shall authorize any tax to be imposed on the inhabitants of said town for the laying out or opening of said highway.

§ 5. This act shall take effect immediately.

CHAP. 233.

AN ACT *to amend an act entitled "An act in relation to the appointment of superintendents of the poor in the county of Westchester, and for other purposes," passed May 6, 1845.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Repeal.

§ 1. The third section of the act entitled "An act in relation to the appointment of superintendents of the poor in the county of Westchester, and for other purposes," passed May 6, 1845, is hereby repealed.

§ 2. This act shall take effect immediately.

CHAP. 234.

AN ACT for the relief of Amos Kingsley and Archibald Campbell.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal appraisers are hereby authorized and required to hear and determine the damages, if any, sustained by Amos Kingsley and Archibald Campbell, in consequence of a break in the Kingsley brook reservoir, situated in the town of Lebanon, and county of Madison, on or about the twenty-fifth day of April, eighteen hundred and forty-three; provided it shall appear to the satisfaction of the appraisers, that the break and consequent damage was owing to neglect and want of proper care or skill on the part of the canal agents. Damages to be ascertained.

§ 2. An appeal from the decision of the canal appraisers Appeal. may be taken by any of the parties to the canal board, as in cases provided by statute, and such further evidence or testimony may be received by the canal board, as may be offered, or as they may deem proper.

§ 3. Such damages when appraised or confirmed by the canal board, if appealed from, shall be paid by the commissioners of the canal fund, out of any moneys in their hands Amount to be paid. not otherwise appropriated.

§ 4. This act shall take effect immediately.

CHAP. 235.

AN ACT in relation to common schools in the town of Flatbush, in the county of Kings.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The trustees of school district number one, of the town of Flatbush, (commonly called the "old town") are hereby authorized and empowered to sell and convey, or lease, all or any of the real estate of said school district, according to directions of the inhabitants thereof, duly expressed in district meeting called for that purpose, in the manner provided by law; and all conveyances, or leases, executed in pursuance hereof shall be valid. Real estate may be sold or leased.

§ 2. This act shall take effect immediately.

CHAP. 236.

AN ACT for the relief of Ebenezer Murdock.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be
paid to E.
Murdock.

§ 1. The treasurer shall pay, on the warrant of the comptroller, to Ebenezer Murdock, or his legal representatives, three hundred and thirty-seven dollars and forty-eight cents, being the balance due, in full, to said Murdock, on a bond held by the state against Nathaniel Leonard, and heretofore purchased by said Murdock, at auction, and omitted in the act entitled "An act for the relief of Ebenezer Murdock," passed January 28, 1837.

§ 2. This act shall take effect immediately.

CHAP. 237.

AN ACT in relation to the appointment of inspectors of hops, fish and oil.

Passed May 12, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

How to be
appointed.

§ 1. Inspectors of hops, of fish and of oil, shall hereafter be nominated by the governor, and appointed by him, with the consent of the senate.

§ 2. This act shall take effect immediately.

CHAP. 238.

AN ACT for the relief of Betsey Ludovick, an Indian woman.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be
paid to B.
Ludovick.

§ 1. The treasurer is hereby authorized to pay on the warrant of the comptroller, the sum of one hundred and ninety dollars and seventy-five cents, with interest thereon from May first, eighteen hundred and thirty-four, to the date of this act, to Elizabeth, alias Betsey, Ludovick, an Indian woman, of the Orchard party of the Oneida Indians, who now resides at Duck creek, near Green Bay, Wisconsin Territory, in full satisfaction of all claims of said Elizabeth alias Betsey Ludo-

vick on the state for indemnity for her lands and improvements sold by virtue of the act passed February 11th, 1829, entitled "An act relating to the purchase of lands from the first Christian and Orchard parties of the Oneida Indians."

§ 2. This act shall take effect immediately.

CHAP. 239.

AN ACT *authorizing the towns of Martinsburgh and Greig to construct a bridge across the Black river.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of highways of the towns of Martinsburgh and Greig, in the county of Lewis, are authorized to build a bridge across the Black river at or near Tiffany's landing, in said towns. But no such bridge shall be erected unless the same shall be so constructed as not to interfere with the navigation of said river with steamboats. Bridge to be built.

§ 2. The supervisors of the county of Lewis are authorized to cause to be levied and collected in the manner now prescribed by law for the collection of taxes, four hundred dollars in the said town of Greig, and three hundred dollars in the said town of Martinsburgh, to build said bridge. Money to be raised by tax.

CHAP. 240.

AN ACT *in addition to an act entitled "An act relating to documentary evidence," passed May 14, 1845.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. A copy of any act, proceeding, record, document, roll, warrant, order, or other paper or writing, now or hereafter remaining in any of the departments of the government of the United States, may, when certified by the head or acting chief officer at the time being of such department to have been compared by him with the original, and to be a correct transcript therefrom, and of the whole of such original, and attested by the seal of his department, be given in evidence in all courts of this state, with the like effect as the original. Copies of documents may be certified and read in evidence.

§ 2. This act and the act hereby amended shall not, nor shall either of them, prevent the proof of such record, act, Sewing clause.

proceeding, document, roll, warrant, order, or other paper or writing, according to the rules of the common law, or in any other manner.

CHAP. 241.

AN ACT to provide for building a bridge across the Genesee Valley Canal at Clay street, in the city of Rochester.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Bridge.

§ 1. The canal commissioners are hereby authorized and directed to build a bridge across the Genesee Valley canal, at Clay street in the city of Rochester.

§ 2. This act shall take effect immediately.

CHAP. 242.

AN ACT to authorize the commissioners of highways in the town of Flatbush in Kings county to widen a road therein mentioned.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Old Mill road
may be
widened.

§ 1. It shall be lawful for the commissioners of highways in the town of Flatbush in the county of Kings, or a majority of them, upon the petition of twelve freeholders of said town, if they shall deem it necessary for the public good, to widen the public road in said town, called the "Old Mill Road," running from the New-Lots road to the Old Mill landing.

Damages to
be ascertain-
ed.

§ 2. The damages sustained by the widening of said road or lane, by the owners of the land taken for said widening, shall be ascertained and paid in the like manner as is provided in relation to the laying out of new public roads in and by "An act regulating highways and bridges in the counties of Suffolk, Queens and Kings," passed February 23d, 1830, and the acts amending the same; and all the provisions thereof not inconsistent with this act, shall apply to the widening of said road.

CHAP. 243.

AN ACT *in relation to pleading in certain cases.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. In every action in which the defendant shall plead any discharge from his debts, or from arrest or imprisonment, obtained under and by virtue of the act of Congress entitled "A law to establish a uniform system of bankruptcy throughout the United States," passed August 19, 1841, the plaintiff may reply generally, that such discharge or exemption was obtained by fraud, and pray the same may be enquired of by the country, and may annex thereto a notice, specifying the several acts of fraud, of which evidence will be given on the trial, to invalidate such discharge or exemption ; which shall entitle such plaintiff to give evidence of the matters so specified on the trial, in the same manner as if they had been specially replied.

Fraudulent discharges under bankrupt act of 1841 may be inquired into and invalidated.

§ 2. This act shall take effect immediately.

CHAP. 244.

AN ACT *to provide for the reconstruction and alteration of the highway between the village of Herkimer and Middleville in Herkimer county.*

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. William S. Benchley of the town of Newport, and Homer Caswell of the town of Herkimer, and Frederick Belinger of the town of Germanflatts, are hereby appointed commissioners to alter, reconstruct and improve the public road leading from the village of Herkimer, in the town of Herkimer, to the bank of the West-Canada creek, and thence along or near the bank of the said West-Canada creek, to the village of Middleville in the county of Herkimer ; and in case of any vacancy by the death, or refusal, or neglect to serve, of any of said commissioners, such vacancy shall be filled by the first or senior judge of Herkimer county, who shall appoint some suitable freeholder of the town in which the commissioner resides, to fill his place.

Commissioners to alter and improve road.

§ 2. The supervisor of the town of Herkimer, is hereby authorized and directed to borrow on the credit of said town, such sum of money, not exceeding three thousand dollars, as

Supervisor of Herkimer may borrow money.

the said commissioners shall direct, in the manner hereinafter specified, to be paid over to said commissioners, and by them applied to the payment of the expenses of altering, reconstructing and improving said road.

How and
when repaid.

§ 3. The money so to be borrowed, shall be repaid with the interest thereon annually, in annual instalments of six hundred dollars each, and that sum shall be annually added to the tax list, and assessed upon the taxable property of said town, and levied, collected and paid in the same manner as, and together with the annual tax of said town, until a sufficient sum is received to pay said principal and interest, but the last amount to be raised shall be only the balance required to extinguish the debt and interest aforesaid.

Supervisor to
give bond.

§ 4. The supervisor is hereby authorized to execute a bond in behalf of said town, upon the borrowing of said money, for the repayment thereof, and the interest in the manner specified in this act; but no act done by this supervisor pursuant to the provision of this act, shall make him personally liable.

Commission-
ers to ac-
count.

§ 5. The said commissioners shall account to the supervisor of the town of Herkimer, when required by him, for all moneys received by them, and the manner in which the same has been expended. The said commissioners shall be liable to the town of Herkimer, in an action to be brought in the name of the supervisor of said town, for all misapplication of such moneys as shall come into their, or either of their hands, as such commissioners, and such action shall not abate or be discontinued by the death or removal from office of said supervisor; and in case of such death or removal, such suit shall be continued in the name of his successor in office.

Survey and
examination
to be made.

§ 6. The said commissioners are hereby authorized and required to make a careful survey and examination of the said road, or of such parts thereof as in their opinion it shall be necessary or proper to alter, in order to avoid or reduce hills, or to straighten and shorten the said road, and also of the changes of route and alterations which they shall designate; and in making such changes and alterations, they shall not deviate from the present line of the road, otherwise than as they shall deem to be materially conducive to the public benefit and convenience. The said commissioners may, in their discretion, order and direct any part of the road passing over hills, to be dug down, specifying the length and depth of the cutting, wherever they shall deem it advisable so to do instead of changing the route of the road; and they shall discontinue such parts of the road now in use, as they shall consider unnecessary for the public use.

Map and de-
scription of
road to be
filed.

§ 7. The said commissioners shall cause a map and description, in writing, signed by them, or a majority of them, of

the changes and alterations of the route in said road, to be filed in the office of the town clerk of the town of Herkimer, whose duty it shall be to record the same in like manner as he is by law required to record the orders of commissioners of highways, in laying out public highways.

§ 8. The damages sustained by any owner or occupant of land, by reason of any such alteration or changes of route in said road, shall be ascertained in the manner prescribed in the fifth and sixth sections of the act entitled "An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county expenses," passed May 10, 1845, except the aforesaid commissioners are authorized to assess the damages instead of the persons named in section five in the act aforesaid. Damages to be ascertained.

§ 9. It shall be the duty of said commissioners, to let by contract, all work done upon said road, to such men or company of men, as they may in their discretion deem most advisable to secure a good and permanent road, by giving public notice, specifying the work to be done, thirty days previous to such letting. The work may be let by contract.

§ 10. Each of the said commissioners hereby appointed, shall be entitled to two dollars per day for his services each day actually and necessarily employed in exploring and laying out said road, and carrying into effect the provisions of this act. Pay of commissioners.

§ 11. It shall be the duty of the commissioners hereby appointed, to expend and lay out so much of the said sum of three thousand dollars, and further sum as may be raised by subscription in addition thereto, after first retaining therefrom the compensation by this act allowed for their services in the actual working and improving of said road, as they or a majority of them in their opinion, may deem advisable and necessary for the permanency and durability of said road. Amount to be expended.

§ 12. The said commissioners in the letting of such work shall adopt such a plan that the whole cost of the alteration and reconstruction of said road shall not exceed the amount of such voluntary donations as shall be made in aid of the same, and the said sum of three thousand dollars. The amount to be borrowed by the supervisor of the town of Herkimer shall be the aggregate amount for which such work shall be let, together with the damages assessed to the owners of property, and fees of the said commissioners, after deducting therefrom the amount of the voluntary contributions hereinbefore referred to, the sum so borrowed in no case to exceed three thousand dollars. Provision respecting the letting of the work.

§ 13. Nothing in this act shall be construed to require or authorize the said commissioners to lay out a new road for the entire distance, but they shall adopt so much of the exist- Restriction.

ing road as part of the highway hereby authorized as can be done without essential deviation from the best route.

§ 14. This act shall take effect immediately.

CHAP. 245.

AN ACT in relation to the temporary relief of the Poor.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Temporary
relief in
counties.

§ 1. Whenever the board of supervisors of any county in this state shall by resolution, declare their intention to adopt the provisions of the act entitled "An act in relation to the temporary relief of the poor in the county of Livingston, and such other counties as may adopt the provisions of this act," passed May 14th, 1845, all the provisions of said act shall extend and apply to said county.

New-York
and Kings
excepted.

§ 2. The provisions of the first section of this act shall not apply to the city and county of New-York, nor to the county of Kings.

CHAP. 246.

AN ACT further to provide for the protection of the public works.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Appropriation to protect
works on
Black River
and Genesee
Valley ca-
nals.

§ 1. The commissioners of the canal fund are hereby authorized and directed to pay to the canal commissioners, out of the revenues of the Erie canal, a sum of money not exceeding twenty-five hundred dollars, to be expended by them in protecting and preserving from decay the unfinished works upon the Black River canal, and in the preservation of materials collected for the same. And the further sum of ten thousand dollars for the same purpose upon the Genesee Valley canal, to be expended by them as early as the season will permit.

CHAP. 247.

AN ACT to provide for the completion of building a bridge across the Neversink river, in the town of Fallsburgh in the county of Sullivan, near the store of M. T. Morse & Co.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the board of supervisors of the county of Sullivan, at their next annual meeting, to cause to be assessed, levied and collected by tax on all the taxable property in the county of Sullivan, the sum of one thousand dollars to be assessed ; that is five hundred dollars the first year after the passage of this act, and five hundred dollars to be assessed the second year. And on the taxable property of the town of Fallsburgh, five hundred dollars ; that is two hundred and fifty dollars shall be assessed the first year after the passage of this act, and two hundred and fifty dollars the second year, which sums so to be raised and collected, shall be assessed, levied and collected in the same manner as other county and town charges, or contingent expenses of such county or town, are assessed, levied and collected. Money may be raised by tax.

§ 2. Such moneys, when collected, shall be paid to Austin Strong, M. T. Morse, Thomas Hardenburgh, C. W. Broadhead and Richard Oliver, all of the town of Fallsburgh, who are appointed commissioners, whose duty it shall be to complete with all necessary despatch the bridge across the Neversink river, in the town of Fallsburgh, county of Sullivan, near the store of M. T. Morse & co., and to apply said moneys to the cost, charges and expense of completing said bridge, and also to pay the sum of eight hundred and eighty-nine dollars, now due for the building of said bridge, and to account to the board of supervisors of said county, after the completion of said bridge and the disbursements of the money ordered levied, assessed and collected, in this act. To be paid to commissioners to complete bridge.

§ 3. This act shall take effect immediately.

CHAP. 248.

AN ACT to alter the commissioners' map of the city of Brooklyn, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Parts of sundry streets and avenues discontinued and closed.

§ 1. That so much and such parts of Wolcott street, Sullivan street and King street, lying between the westerly line of Conover street and the water line, as said streets and water line are laid down on the map of the city of Brooklyn, made by the commissioners appointed "To lay out streets, avenues and squares in the city of Brooklyn," and so much and such parts of William street, Tremont street, Ewer street, Delavan street, Commerce street, Seabring street, Bowne street, Rapelye street, Summit street, and River street, lying between the westerly line of Van Brunt street and the water line, as said streets and water line are laid down on the said map; and so much and such parts of Ferris street, lying between the northerly line of Dikeman street and the southerly line of Harrison street; and so much and such parts of Conover street lying between the northerly line of William street and the southerly line of Hamilton avenue; and so much and such parts of West street, or Hale street, lying between the northerly line of Hamilton avenue and the southerly line of Harrison street, as said streets and avenue are laid down on said map; and also so much and such parts of Coles street, Cooper street, Rapelye street, Woodhull street and Summit street, between Henry street and Smith street; and also so much of said Cooper street from the westerly line of Henry street to the easterly line of Columbia street; and also all parts of streets on said map easterly from the Fifth avenue between Twenty-seventh and Thirty-fifth streets inclusive; also all that part of Thirty-sixth street easterly from the Seventh avenue; also that part of Sixth avenue between the cemetery line and the westerly side of Thirty-fifth street; also that part of Seventh avenue between the cemetery line and the northerly side of Thirty-sixth street; also that part of the Eighth avenue between the cemetery line and the northerly side of Thirty-seventh street; also that part of the Ninth avenue south of the cemetery line; also Hammond avenue, as designated and laid down on said map, except that part lying between Second avenue and Greenwood cemetery; and so much of a certain street laid down on said map called Bedford road, as lies between Myrtle avenue and Clinton avenue; are hereby declared to be discontinued and closed;

and the owner or owners of the lands adjoining and fronting upon said streets, or of any part thereof, and their heirs and assigns, may sell, convey, build upon, or otherwise improve and use the lands forming said streets to the middle of said streets respectively, in the same manner and with the like effect as if the same had never been laid down and designated upon the said map as public streets.

Owners of adjoining lands may improve or sell said streets.

§ 2. It shall and may be lawful for the mayor and common council of the city of Brooklyn, and they are hereby fully authorized and empowered, to take and use for the uses and purposes of a public street, all such lands as may be necessary for continuing Van Brunt street from Hamilton avenue northerly to Harrison street, sixty feet in width, parallel to Columbia street, and distant therefrom five hundred and sixty-five feet; and to widen said Van Brunt street ten feet on each side thereof from the southerly line of Hamilton avenue to Gowanus bay, so that the same shall be seventy feet in width throughout.

Land may be taken to continue Van Brunt street.

§ 3. It shall be lawful for the mayor and common council of the city of Brooklyn, and they are hereby fully authorized and empowered, to take and appropriate to and for the uses and purposes of public streets, four pieces or parcels of land of the width of fifty feet each, extending from the easterly side or line of Henry street to the westerly side or line of Smith street, on lines parallel with Luqueer street, as said Luqueer street is laid down on the said map, to be called "First Place," "Second Place," "Third Place," and "Fourth Place." The northerly side or line of First place shall begin at a point on the easterly side or line of Henry street, distant two hundred and thirty-three feet five inches and one-fourth of an inch southerly from the southerly side or line of Carroll street, as said Carroll street is laid down on the said map. The northerly side or line of Second place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of First place. The northerly side or line of Third place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of Second place. The northerly side or line of Fourth place shall begin at a point on the easterly side or line of Henry street, distant two hundred and sixty-six feet ten inches and one-half of an inch southerly from the southerly side or line of Third place. The carriage way of each of said places shall be twenty-four feet wide, and the side walks thirteen feet wide. The buildings to be erected upon the lots front-

Lands may be taken to form First, Second, Third and Fourth Place.

ing upon said places, respectively, shall be built on a line, thirty-three feet five inches and a quarter of an inch back from the sides or lines of said places, and the intervening space of land shall be used for court yards only.

Marcy square
abandoned
and may be
used and
sold by own-
ers of adja-
cent lots.

§ 4. No part of the block, piece or parcel of land in the said city of Brooklyn, laid down on the said map as bounded by Smith street, Court street, Rapelye street and Summit street, and on the said map designated by the words "Marcy Square," and heretofore intended to be appropriated and used as a public square or park, shall at any time hereafter be appropriated or taken by the mayor and common council of the city of Brooklyn to be used as a public square or park, and all intention so to appropriate the same is hereby deemed to be abandoned; and the owner or owners thereof, or of any part thereof, and their heirs and assigns, may sell, convey, build upon, or otherwise improve and use the same, in the same manner and with like effect as if the same had never been laid down and designated upon the said map as a public square or park.

Hamilton
avenue.

§ 5. The common council of the city of Brooklyn are hereby authorized to change the location of Hamilton avenue, or any part thereof, between Court street and the extreme easterly termination of said avenue, in the Eighth Ward of said city, and for that purpose they may and are hereby authorized to purchase the whole or any part of the road belonging to the Brooklyn and Gowanus Toll Bridge Company, or may purchase any land belonging to any other person or corporation that may be necessary to open Hamilton avenue between the said points, or may take deeds of cession therefor; but previous to the change of such location, the said common council shall ascertain that a majority of all the persons interested in land fronting on said avenue previous to its location being changed, have consented thereto.

Jamaica ave-
nue may be
opened.

§ 6. It shall and may be lawful for the said mayor and common council to lay out and open a new avenue in said city, to be called "Jamaica Avenue;" the northerly line or side of which avenue shall commence on the easterly side of Cumberland street, at a point which is forty feet and three inches southerly from the southeasterly corner of Myrtle avenue and Cumberland street, and running from thence, straight to the westerly side of Clinton avenue, at a point which is eleven hundred and thirty-two feet and ten inches southerly from the southwesterly corner of Myrtle avenue and Clinton avenue; the southerly line or side thereof shall be eighty feet distant from and parallel with the northerly side, and shall extend from the westerly side of Clinton avenue to the southerly side of Myrtle avenue; and for the pur-

pose of opening said avenue, the said common council are hereby authorized to take such proceedings as they now are or may be authorized to take to open streets in said city.

§ 7. This act shall take effect immediately.

CHAP. 249.

AN ACT to annex a part of the town of Somers in the county of Westchester, to the town of Newcastle in said county.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All that part of the town of Somers in the county of Westchester, lying on the southeasterly side of the Croton river in the county of Westchester, is hereby annexed to, and from and after the passage of this act shall constitute a part of the town of Newcastle, in said county. Part annexed to Newcastle.

§ 2. All the remaining part of the town of Somers shall be and remain a separate town by the name of Somers. Somers to remain.

§ 3. This act shall take effect immediately.

CHAP. 250.

AN ACT for the relief of the widow and heirs at law of David Henderson deceased.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the right, title, interest and property of the people of this state, of, in and to, any real estate situate in this state, and of which David Henderson died seised, is hereby released to the widow and heirs at law of the said David Henderson, who shall take and hold the same in the same manner as if the said David Henderson had been a citizen of the United States. Title vested in widow and heirs.

§ 2. This act shall take effect immediately.

CHAP. 251.

AN ACT to authorize the town of Butternuts to raise money to rebuild bridges.

Passed May 12, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Money to be raised by tax

§ 1. The supervisors of the county of Otsego shall, at their next annual meeting, levy and assess upon the town of Butternuts, in said county, the sum of five hundred dollars in addition to the sum already directed to be raised, for repairs of roads and bridges in said town; and they shall direct the collector thereof to pay the same to the commissioners of highways of said town, whose duty it shall be to apply the same toward rebuilding bridges in said town.

§ 2. This act shall take effect immediately.

CHAP. 252.

AN ACT for the relief of Daniel Knight.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages to be ascertained.

§ 1. The canal appraisers are hereby authorized and required to examine and ascertain, subject to an appeal to the canal board, what damages, if any, Daniel Knight has sustained by the construction of the Chenango canal through his lands, situate in the town of Norwich, in the county of Chenango, in the same manner as if the said Knight had made application to said appraisers for the appraisal of such damages within the time prescribed by law, and with the like force and effect ; and any money allowed said Knight under this act, shall be paid by the commissioners of the canal fund, out of any moneys appropriated or to be appropriated for the payment of canal damages.

§ 2. This act shall take effect immediately.

CHAP. 253.

AN ACT to erect the town of Ava from the west part of the town of Boonville in the county of Oneida.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All that part of the town of Boonville, in the county of Oneida, lying west of the following described line, to wit: beginning on the south line of the town of Boonville aforesaid, at the southeast corner of lot number twenty-two of Matchins' patent, and running thence northerly along the east lines of lots twenty-two and twenty-one to the northeast corner of lot number twenty-one aforesaid; thence westerly to the southwest corner of lot number one hundred and eighty-six of Adgate's patent; thence northerly along the west lines of lots number one hundred and eighty-six, one hundred and fifty-eight, one hundred and thirty-three, one hundred and eleven, ninety-two, seventy-six, sixty-two, fifty-one, and continuing the same course across lot number two hundred and two of said Adgate's patent, to the north-westerly line of said town of Boonville, is hereby erected into a separate town by the name of Ava. Town of Ava erected.

§ 2. All the remaining part of the town of Boonville shall continue to be and remain a separate town by the name of Boonville. Boonville to remain.

§ 3. The first town meeting in the town of Ava shall be held on the fourth Tuesday of May, eighteen hundred and forty-six, at ten o'clock in the forenoon, at the house of Joshua Colman in said town; and at such town meeting Isaac Knight, Horace Hoyt and Truman Harger, or any two of them, may preside, and for that purpose shall possess all the powers and duties of justices of the peace. First town meeting in Ava.

§ 4. All subsequent annual town meetings in said town shall be held on the same day as is or shall be provided for holding annual town meetings in the respective towns in the county of Oneida. Future town meetings.

§ 5. This act shall take effect on the fourth Tuesday of May, 1846.

CHAP. 254.

AN ACT to authorize Harrison Stephens to take, hold and convey real estate.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

H. Stephens may take, hold and convey real estate.

§ 1. Harrison Stephens of the city of Montreal, Canada East, a native of the State of Vermont, now an alien, is hereby authorized to take, hold, convey, demise, devise, or otherwise dispose of the real estate of which he has received conveyances within this state, and to take, hold, convey, demise, but not for a term exceeding five years, devise, or otherwise dispose of any other real estate which he may hereafter purchase or acquire within this state, in the same manner as if he were a citizen of the United States ; and his title thereto shall not be affected or impaired by reason of his alienage.

Provision respecting his wife and heirs.

§ 2. The wife and lineal heirs of the said Harrison Stephens, are, and each of them is hereby authorized to take and hold by descent, grant or devise, from the said Harrison Stephens, any real estate owned by him within this state, and to grant, convey, demise, devise, or otherwise dispose of such real estate, in the same manner as if they were citizens of the United States; and their title thereto shall not be affected or impaired by reason of alienage, but no such demise shall be for a term exceeding five years.

In case of his dying intestate.

§ 3. In case of the death of the said Harrison Stephens intestate, his real estate within this state shall descend to his legal heirs in the same manner as if he were a citizen of this state.

§ 4. This act shall take effect immediately.

CHAP. 255.

AN ACT for the relief of George J. E. Lasher.

Passed May 12, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Settlement for damages to be made.

§ 1. The acting canal commissioner having in charge the eastern division of the Erie canal, is hereby authorized to make an agreement and settlement with George J. E. Lasher, for such damages as the said Lasher may have sustained in consequence of the leakage of the water through that portion

of the banks raised on the Erie canal pursuant to the act entitled "An act to provide for the preservation of certain public works, and for other purposes," passed May 6, 1844; and in case no agreement or settlement can be effected between the said canal commissioner and Lasher, then the canal appraisers, subject to an appeal to the canal board, as in other cases provided by statute, are authorized and directed to ascertain and appraise such damages, if any, sustained by the said Lasher, for the cause aforesaid.

§ 2. The commissioners of the canal fund are required to pay the said George J. E. Lasher, or his legal representatives, such sum as may be agreed between him and the canal commissioner mentioned in the first section of this act for the damages, or appraised by the canal appraisers, or awarded by the canal board in case of an appeal, out of any moneys appropriated or to be appropriated for the payment of canal damages. Money to be paid.

CHAP. 256.

AN ACT to provide for the construction of a railroad from Buffalo to the New-York and Erie railroad, in the county of Cattaraugus.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, pursuant to this act, shall be and they are hereby constituted a body politic and corporate, for the term of fifty years, by the name of "The Buffalo and Hinsdale Railroad Company," for the purpose of constructing and maintaining a railroad between the city of Buffalo, in the county of Erie, and the New-York and Erie railroad, at some point at or near Hinsdale, in the county of Cattaraugus, commencing in the city of Buffalo, and running on such route as a majority of the directors of said company shall determine to be best adapted to the public accommodation; and to take, transport, carry and convey property and persons upon the same, by the power and force of steam, of animals, or any mechanical power, or any combination of them. Corporation created.

§ 2. If the said corporation shall not, within eighteen months from the passage of this act, commence the construction of said road, and expend at least the sum of twenty-five thousand dollars thereon, and the additional sum of seventy-five thousand dollars in two years, and shall not, within seven years from the passage of this act, finish a single track of the Time limited

said road, and put the same in operation, then the said corporation shall thenceforth forever cease, and this act shall be null and void.

Capital stock § 3. The capital stock of the said corporation shall be five hundred thousand dollars, which shall be divided into shares of fifty dollars each, which shares shall be deemed personal property, and be transferred in such manner as the said corporation shall, in its by-laws, direct.

Subscriptions to stock § 4. George P. Barker, Elbridge G. Spalding, Dean Richmond, William Ketchum, Robert Person, Hezekiah Moshier, Moses McArthur, Philip D. Riley, Daniel Judd, Alonzo Hawley, Dexter Chapin, Lewis Marsh and Gideon Searle, shall be commissioners, whose duty it shall be, within twelve months after the passage of this act, at some suitable places in the counties of Erie and Cattaraugus, to be fixed by said commissioners, to open books to receive subscriptions to the capital stock of said corporation; and thirty days' public notice shall be given by said commissioners, of the time and place of opening said books, in one of the newspapers of said counties. The said commissioners shall, at the time of any subscription, require the payment to them, by the persons subscribing, five dollars in cash towards and upon every hundred dollars of the said capital stock so subscribed, and unless the same shall be paid as aforesaid the subscription shall be invalid; and in case a greater amount in the whole shall be subscribed than five hundred thousand dollars, the said commissioners shall distribute the stock in such manner as a majority of them shall deem most advantageous to the public interest; but in case the capital stock of said corporation shall not be wholly subscribed, then the said commissioners shall be authorized to reopen said books at such other times and places, in such manner, and after such notice as they, or a majority of them, may direct; and whenever the said capital stock shall be subscribed and distribution made as aforesaid, or as soon thereafter as practicable, it shall be the duty of the said commissioners to give thirty days' notice, in a public newspaper in each of the counties of Erie and Cattaraugus, and in the state paper, for a meeting of the stockholders, at such time and place as the said commissioners, or a majority of them shall appoint, to choose thirteen directors; and such election shall be then and there made, by such of the stockholders as shall attend for that purpose, each share of the capital stock owned by a citizen of the United States, entitling a stockholder to one vote; and the said commissioners, or a majority of them, shall be inspectors of the first election of directors of the said corporation, and shall certify, under their hands and seals, the names of those duly elected, and deliver over the subscription money and books to the said directors.

Notice of the election of 13 directors to be given.

And they shall also fix the time and place of the first meeting of directors, and the said directors shall cause such examinations and surveys to be made as to enable them to select the most advantageous route for the said road ; and the said directors shall, after such examinations and surveys have been made, select, and by certificates, under their hands and seals, designate the route which they shall deem the most advantageous for the said road, one of which certificates shall be filed in the office of the clerks of said counties of Erie and Cattaraugus ; and the route so selected and certified shall be deemed the route on which the said corporation shall construct the said road, as hereinafter mentioned.

§ 5. The first directors chosen shall hold their offices until the first Monday in June in the year next succeeding their election and until others shall be chosen ; and every election of directors thereafter shall be annually, on the first Monday in June in each and every year, and at such time and place in either of the counties aforesaid, as the said directors shall appoint, giving thirty days' previous notice in the manner prescribed for giving notice by the commissioners of opening the books for subscriptions. Every election shall be held under the inspection of five stockholders not being directors, who shall be previously appointed by the board of directors ; all elections shall be by ballot, and a plurality of the votes cast shall constitute a choice, and three at least of the directors shall reside in each of the counties before mentioned. In case of an equal number of votes for any one or more directors, the directors elected shall determine by ballot who shall be entitled to a seat at the board. Every stockholder being a citizen of the United States, shall be entitled to one vote on every share held by him, for thirty days previous to said election.

Annual election, when to be held.

§ 6. In case it shall at any time happen that an election of directors shall not be made on any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved ; but such election may be subsequently made, and the directors for the year preceding shall hold their seats at the board until such election shall be made.

Saving clause.

§ 7. The said corporation is hereby empowered to purchase, receive, take and hold such real estate as may be necessary and convenient in accomplishing the objects for which this incorporation is granted, and may, by their agents, surveyors and engineers, enter upon and take possession of and use all such real estate as may be indispensable for the construction and maintenance of their single or double railroad, and the accommodations required and appertaining thereto ; and may also receive, hold and take all such voluntary grants and

Real estate may be taken and held by the company.

donations of land and real estate for the purpose of the said road as shall be made to said corporation to aid in the construction of the said single or double railroad. But all real estate thus entered upon which are not donations, shall be purchased by the said corporation of the owner or owners of the same, at a price to be mutually agreed on between them ; and in case of any disability on the part of the owners of said land to contract or sell the same on account of infancy, insanity or otherwise, or in case of any refusal to sell or disagreement as to price, and before making any part of said road on said land, the said corporation shall present a petition to the first or senior judge of the county in which such land shall lie, setting forth the necessity of such land for the making of such road, and the failure to obtain the same by agreement, with the reasons thereof, and the name and residence of each owner, if known, together with a map, plan and profile of the road, and praying for the appointment of a jury of appraisers. The said judge shall thereupon direct reasonable notice, in writing, to be given to the owners of such lands of the time of drawing such jury, which shall be at the clerk's office of the county where the lands are situated; and upon due proof thereof and hearing the parties, or such of them as may attend and object to the regularity of the proceedings on the part of said corporation, such judge, together with the clerk of said county, shall draw from the grand jury box of the county, the names of twelve competent and disinterested jurors, who, by an order to be made by such judge, and entered in the common rule book of the court of common pleas, shall be appointed appraisers of the damages sustained by such owners in the construction of such road ; and should any person or persons so designated refuse or neglect to serve on said jury, or be disqualified, the vacancy or vacancies shall be filled by said judge in manner aforesaid. Said appraisers, shall, before entering upon their duties, take the oath prescribed by the sixth article of the constitution of this state. The said judge shall appoint a time and place for said appraisers to meet, and shall cause due notice, in writing, to be served on such owners ; or in case of absence to be left at their usual place of residence, if within the county, and if not, to be put up in some conspicuous place on the premises, of the time and place of meetings, for the purpose of making said appraisement ; and shall also cause due notice to be given to the said appraisers of the time and place of meeting ; and said appraisers shall at such time proceed to view the premises. They shall have power to examine witnesses under oath, which oath any one of the said appraisers is hereby authorized to administer, and shall, without fear,

favor or partiality assess the value of the land taken, and the damages such owners may sustain by the taking of their lands, by injuring buildings, and in the construction of such road, without any deduction on account of any real or supposed benefit or advantage which such owners of such lands may derive by the construction of such road. They shall make an inquisition or certificate of their appraisements, specifying the items appraised, which shall be signed by a majority of them, and contain a minute and accurate description of the land appraised, with a map thereof, and shall present the same, with the testimony taken, to the county clerk, who shall file them in his office. The ballots drawn from the jury box shall be replaced by the county clerk. Upon proof to the said judge within thirty days after the filing of the inquisition of the jury, of payment to the owner or owners, or of the depositing to their credit in such savings institution, savings bank or other bank as the said judge shall direct, of the amount of such appraisements, and of the costs and expenses attending it, including reasonable counsel fees, (to be taxed and certified by such judge,) the judge shall make an order particularly describing the land and reciting the appraisement, and the mode of making it; which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance; and the said corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purpose of said road. This section shall not be so construed as to prevent any individual through whose land said road may run, from the right of crossing the same at suitable and convenient places, for farming and other necessary purposes, nor to authorize the said corporation to take, except by agreement with the owner thereof, any timber, stone or other materials on any land except that on which the said railroad or way shall be constructed. Nor shall the corporation hereby created enter upon or take possession of lands belonging to any association of individuals formed according to law, whose lands have been purchased for the purpose of constructing a railroad thereon. The compensation of the appraisers shall be determined by the said first or senior judge, at a sum not exceeding two dollars per day, in addition to their reasonable disbursements, to be paid by the said corporation. Whenever the verdict of the appraisers shall not exceed the sum tendered by the corporation for the lands proposed to be taken, in such case the corporation shall not be compelled to pay any costs or expenses to the owner of the property appraised, except to such owners as are named in the next section.

Provision in
case of mar-
ried women,
&c.

§ 8. In case any married woman, infant, idiot or insane person, or nonresident of this state, shall be interested in any such land or real estate, the said judge shall appoint some competent and disinterested person to appear before the said jury, and act for and in behalf of such married woman, infant, idiot, insane person, or nonresident.

Sections to
apply to this
act.

§ 9. The ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first sections of the act entitled "An act to provide for the construction of a railroad from Attica to Hornellsville," passed May 14, 1845, shall apply to the corporation hereby created, with the same construction and the like force and effect as though they were incorporated at full length into this act; and the corporation hereby created shall possess and enjoy all the powers, privileges and franchises and provisions, which are granted to and made in favor of the Attica and Hornellsville Railroad Company by the said sections, in the commencement of this section mentioned, and shall be subject to all the restrictions, conditions and liabilities, which, by the said sections, are imposed upon the said corporation.

Bell to be
placed on
each loco-
motive.

§ 10. Said railroad company shall cause a bell of at least thirty pounds weight to be placed on each locomotive engine passing upon its roads, and the said bell shall be rung at the distance of at least eighty rods from the place where the railroad of such company crosses any turnpike, highway, or other public road or street, and shall be kept ringing until such engine has crossed such turnpike, highway or street; for every neglect or omission to comply with the provisions of this section, the railroad company owning the railroad on which such neglect or omission shall take place, shall forfeit and pay to the people of this state the sum of two hundred and fifty dollars, and shall also be liable for all damages sustained by any person by reason of such neglect or omission.

Boards to be
put at roads
crossing this
railroad with
inscription.

§ 11. This railroad company, where required as hereinafter directed, shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across any turnpike, highway, or other public road or street, where the same is crossed by the railroad of such company; such boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers, and on each side of such boards shall be printed in capital letters of at least the size of ten inches each, the words "railroad crossing, look out for the cars while the bell rings." The supervisor or a majority of the commissioners of highways of any town, may require such boards to be so placed and maintained where such railroad crosses any turnpike, highway, or other public road or street, in such town; the president, or a majority of the trustees of

any village, may require such boards to be so placed and maintained where such railroad crosses any turnpike, highway, or other public road or street, in such village ; and the mayor or common council of any city may require such boards to be so placed and maintained where such railroad crosses any turnpike, highway, or other road or street in such city. The requirements to place and maintain such boards shall be in writing, and served upon the president or secretary of the railroad company. If such railroad company shall neglect to erect such boards for ten days after such requirement shall be so served, or shall at any time after their erection neglect for the space of three days to maintain and keep them up, shall forfeit and pay to the people of this state, for every such neglect, the sum of five hundred dollars, and shall also be liable for all damages sustained by any person by reason of any such neglect.

§ 12. This railroad company, upon being thereto required by the postmaster-general of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress, entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the post-office department," approved March 3, 1845 ; and if such railroad company shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay to the people of this state one hundred dollars for every day it shall so neglect or refuse.

Contract to be made for carrying the mails of the U. S.

§ 13. This corporation, before running any cars upon the said railroad, shall erect and thereafter maintain upon the sides thereof, except where the road shall intersect some public highway, a fence of such height and strength as is by law required as a division fence between the owners of adjoining lands, and shall also make and keep in repair, wherever the same may be necessary upon the line of the said railroad, suitable guards to prevent cattle from running upon the same ; but this section shall not prevent persons owning or occupying lands adjoining the said road, from erecting at proper and convenient places, where they may have occasion for crossing the said road for farming and other necessary purposes, suitable gates in the line of said fence to facilitate such crossing, to be kept in repair by the person using the same.

Fences to be erected.

§ 14. The legislature may at any time alter or repeal this act.

Right to repeal.

§ 15. This act shall take effect immediately.

CHAP. 257.

AN ACT to incorporate the German Young Men's Association of the city of Buffalo.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. The present members of the German Young Men's Association of the city of Buffalo, and such other persons as may hereafter become associated with them, agreeably to the constitution and by-laws of the corporation hereby created, are hereby constituted a body corporate, by the name of "The German Young Men's Association of the city of Buffalo," and by that name shall have succession for the purpose of establishing and maintaining a library, museum, reading rooms, literary and scientific lectures, exercises and debates, and other means of promoting moral and intellectual improvement ; with power for such purposes, to take and hold any real and personal estate, by purchase, grant, devise or otherwise, and to mortgage, sell or lease, such real or personal estate : Provided always, that the said corporation shall not, at any time, hold or possess real or personal estate, to an amount exceeding in value the sum of fifteen thousand dollars.

By laws.

§ 2. The said association shall have power to make and adopt a constitution and by-laws, rules and regulations for the admission and government of its members ; for the election of its officers and their duties ; for the suspension or expulsion of any of its members, and for the safe keeping and protection of its property and funds ; and from time to time to alter and repeal such constitution, by-laws, rules and regulations.

Affairs how
managed.

§ 3. The management, control and disposition of the funds, property and pecuniary affairs of the said association, shall be vested in such of its members, and according to such rules and regulations, as the said association, by its constitution and by-laws or otherwise, shall from time to time ordain and direct.

Officers.

§ 4. The officers of the said association shall consist of a president, a vice-president, a recording secretary, a corresponding secretary, a treasurer and librarian, who shall constitute the executive committee of said association, and shall be elected to their respective offices for such periods, at such times and under such regulations as the said association, by its constitution and by-laws, may from time to time ordain and direct.

§ 5. The several officers of the said association, at the time of the passage of this act, shall continue to hold their respective offices as officers of the corporation hereby created, until the next election, (unless in case of a vacancy previously occurring,) and all personal property or funds, or securities now held by the said officers, or either or any of them, or by any other person or persons in trust for the said association, or for the use or benefit of the same, shall, by virtue of this act, vest in and become the property of, and may be sued for and recovered in the name of, the corporation hereby created; and the said corporation shall assume and be liable for all contracts and agreements and responsibilities which have been entered into or incurred previous to the passage of this act, by the officers of the said association or any of them, lawfully acting in behalf of the said association. Tenure of office.

§ 6. The estate, property and funds of the said corporation, shall be devoted solely to the general purposes and objects specified in the first section of this act; and the real estate of the said corporation shall be subject to taxation in the same manner that real estate is, that is held or owned by individuals. Funds how devoted.

§ 7. The said corporation shall possess the powers and be subject to the provisions and liabilities of the third title of the eighteenth chapter of the first part of the Revised Statutes. General powers

§ 8. This act shall take effect on its final passage; and may at any time hereafter be altered, amended or repealed by the legislature. Right to repeal.

CHAP. 258.

AN ACT to incorporate the Henrietta Plank Road Company.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All persons who shall become stockholders pursuant to this act of the corporation hereby created, shall be and they are hereby constituted a body politic and corporate, by the name of the Henrietta Plank Road Company, for the term of twenty-one years after the passage of this act. Corporation created.

§ 2. The capital stock of such corporation shall be fifteen thousand dollars, with the privilege of increasing the same to twenty thousand dollars; it shall be divided into shares of twenty-five dollars each, shall be deemed personal property, and be assignable as the by-laws of said corporation shall direct. Capital stock

Subscriptions to stock

§ 3. Samuel Utely, Micajah W. Kirby, David H. Richardson, of Henrietta ; Samuel G. Andrews and Nehemiah B. Northrop, of the city of Rochester, or a majority of them, shall be commissioners to open books and receive subscriptions to said capital stock, and to receive donations in the name of and for the benefit of such corporation ; one dollar shall be paid on each share of stock at the time of the subscription thereof.

Affairs how to be managed.

§ 4. The concerns and business of the said corporation shall be managed by seven directors to be chosen from among the stockholders thereof. Each stockholder shall be entitled to one vote for every share of stock owned by such stockholder ; which vote may be given in person or by proxy, duly appointed in writing.

Meeting when to be held to choose directors.

§ 5. Whenever eight thousand dollars shall have been subscribed to such capital stock, it shall be the duty of the commissioners named in the third section of this act, by notice of at least six days, posted in each of the towns through which the said road hereby authorized to be constructed shall pass, to call a meeting of the stockholders at some convenient place near the line of said road, for the purpose of choosing directors of said corporation, and the persons chosen at such meetings shall hold their offices until others are elected in their stead. In every succeeding year the directors shall be elected by the stockholders on the first Tuesday in February.

Route of road and how to be constructed.

§ 6. The corporation hereby created is hereby authorized to construct a plank road, to commence at the forks of the road south of the tavern now kept by J. M. Woolcott, in the town of Brighton ; thence southerly on the stage road leading to Henrietta village in the county of Monroe, which will make the length of the road created by this act, about four miles and a half. The track of said road shall be constructed of timber and plank, and the surface thereof shall be formed smooth and even ; the carriage way of said road shall be at least eighteen feet wide, but the particular manner of building such road in all other respects shall be determined by the directors of such corporation.

Commissioners to locate road.

§ 7. John H. Robinson, Elihu Kirby and William Wright, of the town of Henrietta, are hereby appointed commissioners to locate said road on the route mentioned in the last section. In case either of them shall neglect or refuse to act, the first judge of the county courts of Monroe shall appoint some disinterested freeholder of the county to supply his place. Said commissioners shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office, and shall be paid for their services by the said corporation, such sum as its directors may deem just.

§ 8. Said corporation shall, within four years from the Time limited passage of this act, construct the whole of said road so to be located, and shall afterwards, during its existence as a corporation, keep and maintain said road in good condition and repair. If said four and a half miles or thereabouts of said road shall not be constructed in said four years, said corporation shall be deemed to be dissolved, and its corporate rights shall wholly cease.

§ 9. The said corporation may use for the construction of said road, the route of any public highway on which the same Routes of public highways may be used. may be laid by said commissioners, with the consent in writing, of all the highway commissioners of the town in which such highway shall be situated, without making any compensation to such town or commissioners of highways thereof; such consent shall be given in duplicate, and one copy thereof shall be filed in the clerk's office of said town. If such consent shall be refused, the said corporation may use any such road on paying to the supervisor of said town such sum as may be awarded to said town by three freeholders to be appointed by one of the judges of the county of Monroe, in manner prescribed in article second of the first title of chapter eighteen, of the first part of the Revised Statutes, and to proceed as directed in said article.

§ 10. Whenever said road shall be completed, it shall be Rates of toll. lawful for said corporation to erect a toll-gate thereon, and appoint a toll collector for the same at such gate, when erected in pursuance of this act, the said corporation and the toll collectors thereof, may demand and receive the following tolls, viz: For every carriage, sled, sleigh or other vehicle of any description drawn by one horse or other animal, ten cents; if drawn by two, twelve and a half cents; if drawn by more than two, three cents in addition for every such additional animal; for every horse and rider, six and a fourth cents; for every horse without a rider, every mule or head of neat cattle not attached to a vehicle, and half score of sheep or swine, one cent. The collector of tolls at said gate, may detain and prevent from passing such gate, any animal, team, carriage or other vehicle subject to toll, until the toll thereon shall be paid.

§ 11. Any person who shall wilfully injure, break, or Penalties. throw down any gate which shall have been erected on said road pursuant to the provisions of this act, or dig up or wilfully injure or spoil any part of such road, or any thing thereunto belonging; or shall drag along or across said road any log, timber, wood or stone, so that the same shall come into contact with the even surface of said road; or forcibly or fraudulently pass any such gate without the payment of the legal toll; or shall, with his team, carriage, sleigh, sled or

three years, by a proper person or persons for that purpose, to be appointed by the board of trustees of said village, whose duty it shall be to make such appointments, and which census shall be taken not more than thirty days nor less than ten days next preceding the annual elections of said village, by this act directed to be held ; and it shall be the duty of the person or persons, so as aforesaid appointed to take the census of said village within the time limited for completing such census, to make and file in the office of the clerk of said village, a statement in writing, setting forth the aggregate number of inhabitants of said village, and also the aggregate number of inhabitants residing in each respective ward thereof, which said statement so filed shall be conclusive evidence of the number of inhabitants residing in the respective wards for the purpose of determining the location of trustees, as is before in this act provided ; and it shall be the duty of the trustees in all notices of election of trustees, to specify the ward which is entitled to the location of three of the said trustees as is before provided in this act.

Amount of penalties.

§ 73. No penalty or fine to be declared by any by-laws or ordinance, shall exceed the sum of fifty dollars unless the same is hereby expressly authorized; nor shall any by-laws or ordinance be made inconsistent with any existing law of this state.

Suits to be brought by the trustees.

§ 74. All suits for penalties and fines shall be brought by the said trustees in the corporate name of said village, and may be brought before any justice of the peace of the town of Lockport, or of any town adjoining, in said county of Niagara, which justice shall have authority to hear and determine the same, in which it shall be sufficient for the plaintiff to declare, generally, in an action of debt, and give the special matter in evidence ; and all penalties and fines paid, and all sums of money recovered under this act, shall be for the benefit of the said corporation, and paid into the office of the treasurer.

Warrants may be renewed.

§ 75. The said trustees may renew, from time to time, any tax or assessment warrant issued by them if they shall deem it expedient ; and in case the term of office of any collector elected or appointed under this act shall expire while any such warrant remains uncollected in his hands, such collector may execute such warrant in the same manner as if his term of office had not expired.

Estate.

§ 76. The estate real and personal which the said corporation may hold and purchase, shall not at any time exceed in value the sum of ten thousand dollars.

Saving clause.

§ 77. No person shall be an incompetent judge, justice, juror, constable, or witness by reason of his being an inhabitant or freeholder in said village, in any action or proceeding in

which said village is a party, or interested, except as herein otherwise provided.

§ 78. All former acts relating to the village of Lockport ^{Repeal.} are hereby repealed, but such repeal shall not affect any act done, or right secured or established, or any suit, proceeding or prosecution had or commenced previous to the time when such repeal shall take effect; but every such act, right or proceeding shall remain as valid and effectual as if said acts had remained in force; and all officers elected or appointed under, or by virtue of any act hereby repealed, shall continue in office until their successors are elected or appointed according to this act; and all estates, real and personal, vested in or belonging to the village of Lockport, when this act shall take effect, shall continue to be vested in and belong to said village.

§ 79. This act is declared to be a public act and shall take ^{Public act.} effect immediately.

§ 80. The legislature may, at any time hereafter, alter, ^{Right to re-} modify or repeal this act. ^{peal.}

CHAP. 308.

AN ACT to provide for the construction of a railroad from Schenectady to the New-York and Erie railroad, in the county of Chenango or Broome.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, pursuant to this act, shall be and they are hereby constituted a body politic and corporate, by the name of "The Schenectady and Susquehannah Railroad Company," for the purpose of constructing and maintaining a railroad between the city of Schenectady in the county of Schenectady and the New-York and Erie railroad, commencing in the city of Schenectady and running through the valleys of the Normanskill, Cobleskill, Schenevas, and the east branch of the Susquehanna, as the directors of the said company shall determine to be best adapted to the public accommodation; and to take, transport, carry and convey, property and persons upon the same, by the power of steam, of animals, or any mechanical power, or any combination of them, with permission also to make any lawful contract with any other railroad company. And on the construction of each and every ten miles of the said railroad, it shall be lawful for the said company to receive and exact such reward for the transportation of persons and property thereon as may be established in pursuance of this act. ^{Corporation created.}

acts, matters and things, which to the said corporation it may appertain to do, under the regulations, restrictions, limitations and provisions herein prescribed and declared.

Affairs how
to be man-
aged.

§ 3. The management of the concerns of the said corporation shall be entrusted to seven directors, who shall be stockholders; and the commissioners named in the first section of this act, or a majority of those of them who may attend to the receiving of subscriptions, shall designate the time and place of holding the election for the first board of directors, and give reasonable notice thereof; and the said commissioners, or a majority of them, as aforesaid, shall be inspectors of said election, and shall certify under their hands, the names of those duly elected, and shall deliver over to them the subscription books; and the directors so elected, shall hold their office for one year after their election, as aforesaid, or until others shall be elected in their places; and that at the first, and all subsequent elections for directors of said company, each share shall entitle the holder to one vote; provided however, that no transfer of stock shall entitle any person to vote, unless such transfer of stock shall have been entered upon the books of the corporation, at least three days previous to the election at which the vote is offered.

Election of
directors.

§ 4. All elections for directors, after the first, shall be held annually, at such times and places, and under such regulations as shall be prescribed by the by-laws of the corporation; and the board of directors shall give fifteen days' notice of each and every election by advertisement, in at least two of the newspapers of the city of New-York, and one in the county of Tioga, and one in the county of Broome, and all elections shall be by ballot, by the stockholders, either in person or by proxy; and the persons who shall have the greatest number of votes shall be directors; and if two or more persons shall have an equal number of votes, then the said commissioners at the first election, and afterwards the directors in office, at any future election, or a majority of them, shall, by a plurality of ballots, determine which of said persons, so having an equal number of votes, shall be a director or directors, so as to complete the whole number to be elected; and all vacancies that may occur by death, resignation or otherwise, in the board of directors, shall be filled for the remainder of the year in which they shall happen, by such person or persons as the residue of the directors, or a majority of them shall appoint; and the corporation hereby created, shall not be dissolved by reason of not holding an annual election on the day prescribed by the by-laws, but it shall be lawful for the board of directors to provide for and direct an election on any other day, in case the stockholders shall neglect to make an election on the day fixed by the by-laws; and until such provisional election,

the directors for the time being, shall continue to discharge the duties of their office.

§ 5. The directors shall choose a president, a secretary and treasurer, to hold their offices during the pleasure of the board; and a majority of the directors shall be a quorum for the transaction of business; and the said directors shall have power to declare the stock of such persons as shall neglect to pay for the same, according to the terms of the subscription, and all previous payments thereon, to be forfeited to the use of the said company, or may sue for and recover from such delinquent subscribers and stockholders, the amount due on such shares, in an action of assumpsit, in any court having cognizance thereof, whether any payment shall have been made by such delinquent subscriber on such stock or not; and no stockholder, whether an original subscriber or an assignee, shall be entitled to a vote at any election, or at any general or special meeting of the said company, on whose share or shares any instalment or arrearages may be due and payable more than thirty days previously to such election or meeting.

Officers to be
chosen by
directors.

§ 6. The board of directors shall meet at such times and places as shall be found most convenient for the transaction of their business, and when met, in the absence of the president, may choose a chairman, and they shall keep minutes of all their transactions, fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers, as they shall deem necessary to carry on their intended works, and to fix their salaries and wages; to ascertain the times, manner, and proportions in which the stockholders shall pay the moneys due on their respective shares; to draw orders on the treasurer, provided that such drafts or orders be signed by the president, or in his absence, by a majority of the quorum present; and generally to do all such other acts, matters and things as by this act, and by the by-laws and regulations of the company they may be authorized to do.

Meetings and
powers of di-
rectors.

§ 7. The directors first chosen, shall procure certificates or evidence of stock for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held; which certificates or evidence of stock shall be transferable at the pleasure of the holder in person, or by attorney duly authorized, in presence of the president or treasurer, or such other officer as the board of directors shall for that purpose designate, each of whom shall keep a book for that purpose, subject, however, to all payments due or to become due thereon; and the assignee hold-

Certificates
of stock.

ing any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the transfer of stock, shall be a member of the said corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and to all the estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and shall be subject to all the forfeitures as the original subscribers would have been.

Company
empowered
to construct
canal.

§ 8. The corporation created by this act be and they here-
by are authorized and empowered to make, construct and for-
ever maintain, a canal or slackwater navigation of suitable
width, depth and dimensions, to be determined by the said
corporation, from a point at or near the termination of the
Chenango canal, at or near Binghamton, in the county of
Broome, through or along the valley of the Susquehannah
river, within the jurisdiction of this state, to the line of the
state of Pennsylvania, at or near Athens, in the county of
Bradford in said state, to connect with the North Branch can-
nal, at or near said point; and said corporation may form
and construct a towing-path or paths, all necessary locks,
aqueducts, culverts, dams, waste weirs and toll-houses, artifi-
cial harbors for boats, side cuts or lateral canals, connected
with said basins, at such place or places as shall be found ex-
pedient; and all necessary feeders from any rivers, or from
other streams, if more convenient, and all other works inci-
dent to or necessary and convenient for constructing, main-
taining and repairing said canal or navigation.

Land how to
be purchased

§ 9. Said corporation may purchase and hold any land,
real estate and water privileges necessary for constructing,
maintaining and repairing said canal and the works connected
therewith as aforesaid, and may also receive, hold and take
all voluntary grants and donations of real estate and water
privileges which shall be made to them, to aid the objects of
said corporation; and whenever the said corporation shall
become possessed of and own any lands, real estate and water
privileges that may be unnecessary for them to retain for the
purposes aforesaid, it shall be lawful for them to lease, occu-
py and convey the same by lease or deed, and to sell or lease
any and all surplus waters of said canal, not wanted for the
commodious navigation thereof, on such terms as they shall
deem expedient; and whenever said real estate and water
privileges can not be obtained by voluntary donation or pur-
chase, by reason of disagreement between said company and
any person or persons owning any real estate or streams of
water, which the said corporation may require as aforesaid,
respecting the amount to be paid therefor, it shall be lawful
for the parties to appoint three persons impartially to estimate
and determine the price to be paid for the same; but if the

parties cannot agree upon such persons; or if either party shall refuse or neglect to join in such appointment, within twenty days after requisition for that purpose upon him or them made, or if the owner or owners of such real estate and water privileges shall be feme covert, under age, non compos mentis, or out of the state; or if a majority of the persons appointed by the parties, shall not, within thirty days after receiving notice of their appointment, file a report of their estimate in the office of the clerk of the county where the land lies, then and in either of these cases, either party may apply to the court of common pleas of the county in which the said real estate or water privileges is or are situated, and the said court shall award a venire to the sheriff, requiring him to summon a jury of disinterested men, to ascertain and report to said court the price to be paid by said company for said real estate or water privileges; which report being confirmed by the said court, and a reasonable sum awarded to said owner or owners for costs, and the sum so reported and awarded, paid or tendered to said owner or owners by the said company, the said company shall be deemed seized in fee of the premises for the purposes aforesaid, in the same manner as if the same had been conveyed by the owner or owners to the said company and their successors in fee.

§ 10. If any person or persons shall be injured by means of any dam or dams being erected under the provisions of this act, or the land of any person shall be inundated by swelling the water, by means of any dam or dams, or any mill or other water works which may have been erected on any stream that the corporation hereby created may use for the improvements authorized by this act; and if the directors of the said corporation cannot agree with the owner or owners thereof, as to the compensation to be paid for such injury, the same proceedings shall be had, as is provided in the preceding section of this act; and the persons or jury valuing the damages, having been first sworn or affirmed, justly and impartially to assess the same, shall take into consideration the advantages which may be derived by such owner or owners from the navigation aforesaid.

§ 11. The directors of the said corporation, by and with such superintendents, engineers, artists, workmen and laborers, with their tools, instruments, carts, waggons and other carriages, and beasts of draught and burthen, may enter upon the lands contiguous and near to the tract of the said intended canal or navigation, giving notice to the owners or occupiers of such lands, and from thence take and carry away any stone, timber, gravel, sand, earth or other material, doing as little damage thereto as possible, and repairing any breach they may make in the enclosures thereof, and making amends for

Damages
how to be as-
certained.

Lands may
be entered
on to procure
materials.

any damages that may be done thereon, and paying for the materials so taken away; the amount thereof, if the parties cannot agree, shall be assessed and valued by any three disinterested freeholders, residing in the neighborhood, under oath or affirmation, to be appointed by the parties; or if they cannot agree in their appointment, then to be appointed by any disinterested justice of the peace of the township; and it shall be the duty of the said freeholders to file a report of their assessment, within seven days after they shall have agreed upon the same, with a neighboring justice of the peace, by whom the same shall be entered upon his docket; and the said freeholders shall also, within the said seven days, notify each of the parties of the name of the justice of the peace with whom their report had been filed; and either party may appeal from said report to the court of the county, at any time within thirty days after the same shall have been so filed.

Collectors of
tolls to be ap-
pointed.

§ 12. It shall and may be lawful for the directors of the said company, as soon as the said canal and navigation shall be completed, so as to allow of the passage of boats, to appoint such and so many collectors of tolls for the passage of boats and vessels in and through the same, and in such places as they shall think proper; and that it shall and may be lawful for such collectors of toll and their deputies, to demand and receive of and from the persons having charge of any boat, ark, craft, raft or other vessel or instrument, or vehicle for transportation, passing through the said canal or navigation, such toll and rates as the said directors shall think proper by its by-laws to require at any lock or other convenient place; provided that the said tolls shall not in the whole, exceed the rate of two cents and five mills per mile, for every ton weight of the ascertained burthen or capacity of any boat, ark, craft or vessel, laden with or engaged in the transportation of coal, salt or plaster.

Tolls to be
collected.

§ 13. The collectors of tolls duly appointed by the directors of the company may stop and detain all boats, vessels, crafts, rafts or other instrument or vehicle for transportation, using the said canal and navigation, until the owner or commander or supercargo of the same shall pay the toll so as aforesaid fixed; and if any owner, skipper or supercargo of the same shall pass by any place appointed for receiving tolls, without making payment thereof, according to the provisions of this act, and with intent to defraud the said company out of such toll, he, she or they so offending, shall forfeit and pay for every time they shall so pass by each appointed place, to the said company, the sum of forty dollars, to be sued for and recovered by action of debt, in like manner, and subject to the same rules and regulations as debts under fifty dollars may be sued for and recovered, together with the costs of suit.

§ 14. In order to ascertain the tonnage of boats or other instruments or vehicles for transporting, using or passing the said navigation, and to prevent disputes between the supercargoes and collectors of tolls, concerning the same, upon the request of the owner, skipper or supercargo of the same, or of the collector of said tolls, at any lock or place appointed for receiving of tolls, upon the said navigation, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the tonnage the said boat is capable of carrying, and to mark the tonnage so ascertained, in figures upon the head and stern of the said boat, instrument or vehicle, in colors mixed with oil or other durable matter; and the said boat or vessel so measured and marked, shall be permitted to pass through the said canal and navigation for the price to which the number of tons of the vessel and cargo by her said marks shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo of any boat, shall decline choosing a person to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the directors of the corporation, or chosen by the said collector of tolls; and the tolls shall be paid according to such measurement, before any such boat shall be permitted to pass the place where such toll is made payable.

Tonnage of
boats to be
ascertained

§ 15. If any person shall wilfully and knowingly do any act or thing whereby the navigation shall be impeded, or any dam, lock, gate, canal, engine, machine, property or device whatsoever, thereunto belonging, shall be injured or damaged, he, she or they so offending, shall forfeit and pay to the said corporation, four times the amount of damages by them sustained, together with costs, to be recovered by action of debt, before a justice of the peace, or in any court of competent jurisdiction.

Penalty.

§ 16. It shall be the duty of the master or commander of any boat, ark, raft, vessel or instrument or vehicle for transportation, passing through said navigation, when he shall arrive within one-fourth of a mile from any lock erected in said navigation, to blow a trumpet or horn, whereupon the keeper of such lock shall attend for the purpose of opening the gate or sluice, to let the said boat, ark, raft or other vessel pass without unnecessary delay, and in safety; and if when said canal is in navigable order, any boat, ark, raft or other vessel shall be prevented from passing up or down any of said locks or sluices, by reason of the lock not being raised or opened, for more than thirty minutes, on any day except Sunday, the said corporation shall, on conviction thereof, before any justice of the peace of the proper county, forfeit and pay to the person so hindered, the sum of one dollar for every thirty

Horn or
trumpet
when to
be blown.

minutes beyond the said time that he shall be so prevented, and in the same proportion for any longer or shorter time; and the service of any civil process upon the toll gatherer in the proper county where the offence shall have been committed, shall be held as good, and as available in law, as if served upon the president of the said corporation.

Bridges to be erected.

§ 17. Whenever any sluice or canal made by the company hereby incorporated, shall cross any public or private laid out road or highway, or shall divide the grounds of any person or persons into two parts, so as to require a bridge to cross the same, the said company shall cause a bridge fit for the passage of waggons and carts to be built, and forever thereafter to be maintained and kept in repair, at all and every place or places where the same is so required, at the cost and charges of the said company; but nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridges across any sluice or canal at his own expense, when the same shall pass through his ground, provided that such foot or other bridges so to be erected by the owners of such land, shall not interfere with any sluice or lock, or other works of the said company.

Accounts to be kept of moneys paid for stock

§ 18. The directors of the said company shall keep fair and just accounts of all moneys received by them from the commissioners named in the first section of this act, and from the subscribers to the company, on account of their several subscriptions; and the amount of the profits on the shares which may be forfeited as aforesaid, and also of all moneys by them expended in the prosecution of the said works, and shall, in every year, submit such accounts to the stockholders at their annual meeting to choose officers of the company, and the aggregate amount of such receipts and expenditures shall be ascertained, and if, upon such liquidation, or when the capital stock shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said navigation, and effect the objects designed by this act, according to the true intent and meaning thereof, it shall be lawful for the said directors, with the concurrence of the stockholders, given at a stated or at a special meeting convened for the purpose, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the moneys for shares so subscribed, in like manner and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided by their by laws.

Of moneys received for tolls.

§ 19. The said directors shall also keep a just and true account of all the moneys received by their several and respective collectors of toll, and all other emoluments, and shall make and declare a dividend of the clear profits and income

thereof, among all the stockholders not in arrear to the company, all contingent costs and charges being first deducted.

§ 20. The said company shall not, by any thing in this act contained, be authorized to enter upon, or exercise any control over any private property, land or water, under the eleventh section of this act, without the consent of the owner thereof, until ample security shall be given by such company, to be approved of by the clerk of the county wherein the same is situated, to pay the damages to be assessed as aforesaid, as provided by this act. Saving clause.

§ 21. It shall at any time hereafter, be lawful for the legislature to alter or repeal this charter. Right to repeal.

CHAP. 260.

AN ACT for the benefit of the East River Mutual Insurance Company, in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the East River Mutual Insurance Company in the city of New-York, the capital of which has become impaired by losses occasioned by the fire nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount now fixed by law. Calls on' stockholders.

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such form and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the capital of the said company as fixed by law, paying for fractional parts of shares. Provision in case of refusal or neglect.

§ 3. It shall further be lawful for the said company to create new stock, to dispose of the same, and to issue certificates therefor, to an amount sufficient to make up the capital of said company as fixed by law. New stock.

§ 4. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required Sections of act of 1836 to apply.

by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company, and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it: the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in, and invested over and above any portion thereof that may have been lost or applied to the payment of the liabilities, and the statement so required shall be published by and at the expense of the said company, in a public newspaper, published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller, and immediately after such publication evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Amount of
capital stock.

§ 5. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation, that the capital of the said company as fixed by law, hath been made good by subscription and payment, the amount so certified, shall be deemed and taken as the capital stock of the said company.

§ 6. This act shall take effect immediately.

CHAP. 261.

AN ACT for the benefit of the United States Fire Insurance Company in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Calls on
stockholders.

§ 1. It shall be lawful for the United States Fire Insurance Company in the city of New-York, the capital of which company has been impaired by losses occasioned by the fire of the nineteenth day of July last, within one year from the passage of this act, to make calls upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of the said company.

Provision in
case of refusal
or neglect

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls, after notice personally given or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as

the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, paying for fractional parts of shares; and to create new stock to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section, shall be verified by the oath of the president or secretary of the said company; and shall contain among other things a statement of the amount of the liabilities of the said company or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities, and the statement so required, shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller, and immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of said company, verified by their oath or affirmation that the said capital stock hath been made good by subscription and payment, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 262.

AN ACT to change the name of the Black River Literary and Religious Institute.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. From and after the passage of this act, "The Black River Literary and Religious Institute," may take, and shall be known by, the name of "The Jefferson County Institute."

CHAP. 263.

AN ACT to change the name of the Methodist Episcopal Church at Kingston, and for other purposes.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Name.

§ 1. The corporation of the "Methodist Episcopal Church of Kingston," shall hereafter be known, distinguished and designated by the name and title of "St. James' Methodist Episcopal Church of Kingston."

Acts of trustees confirmed.

§ 2. All the acts of the trustees of said church heretofore done and performed under the name and style of the "St. James' Methodist Episcopal Church of Kingston," be, and the same are hereby declared as legal, effectual and binding, as if such name had been originally adopted in the certificate of incorporation.

Number of trustees.

§ 3. The nine trustees heretofore elected for said corporation shall continue to exercise the power of trustees of said corporation; and their previous acts as such trustees are hereby made and declared to be as valid and effectual as if that number had been originally named in the certificate of incorporation; and such corporation shall be and are hereby authorized to continue to elect nine trustees of the said corporation, in the same manner as if that number of trustees had been originally named in the certificate of incorporation, and such trustees shall be classed, or continue to be classed in the manner prescribed by the sixth section of the act entitled "An act to provide for the incorporation of religious societies," passed April 5, 1813.

§ 4. This act shall take effect immediately.

CHAP. 264.

AN ACT to incorporate the village of Ebenezer, in the county of Erie.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Bounds of the village.

§ 1. All that tract of land known and distinguished on a map of the Ogden Company's survey as the German Purchase, in township number ten, in the sixth and seventh range of townships, according to the Holland Land Company's survey, being a part of the late Buffalo Creek reserva-

tion, situated in the towns of Chickawaga, Hamburg and Lancaster, and also newly surveyed and laid down by Peter Emslie, surveyor, upon a certain map, a copy of which shall be filed, after the passage of this act, in the clerk's office of said county of Erie, shall hereafter be distinguished and known by the name of the village of Ebenezer; and the inhabitants residing therein are hereby constituted a body corporate, by the name of the trustees of the village of Ebenezer, and shall and may have succession as such.

§ 2. The corporation hereby created shall possess all the powers and privileges, and be subject to all the liabilities and restrictions, contained in the third title of chapter eighteen of the first part of the Revised Statutes, so far as may be applicable to such a corporation. General powers.

§ 3. The said corporation shall form a separate road and school district. Road district

§ 4. The trustees of said corporation shall be duly elected in accordance with the constitution and laws of this state; and shall have power, within said village, to make, publish, amend and repeal ordinances, rules, regulations and by-laws, for the following purposes: Power of trustees.

1st. To preserve peace and good order;

2d. To prevent vice, intemperance and immorality.

§ 5. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant or freeholder in the village of Ebenezer, in any action or proceeding, in which the said village is a party interested. Competency of inhabitants.

§ 6. The clerk of said corporation shall keep the corporate seal and all the papers belonging to said village, and copies of all papers duly filed in his office; and transcripts from the records of the proceedings of the board of trustees, certified by him, under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. Duty of clerk.

§ 7. The legislature may at any time alter, modify or repeal this act. Right to repeal.

CHAP. 265.

AN ACT for the benefit of the National Fire Insurance Company, in the city of New-York.

Passed May 12, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for the National Fire Insurance Company in the city of New-York, the capital of which has become impaired by losses occasioned by the fire of the nine- Calls on stockholders

teenth of July last, within one year from the passage of this act, to make calls upon the stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company.

Provision in case of refusal or neglect § 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company to require the return of the original certificates of stock held by such stockholder, and in lieu thereof, to issue new certificates for such number of shares as the said stockholder may be entitled to, in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company, or to the said sum of one hundred and fifty thousand dollars paying for fractional parts of shares; and to create new stock, to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company, or to make up the said sum of one hundred and fifty thousand dollars, reducing in proportion to the par value of the shares of such company.

Sections of the act of 1836 to apply § 3. The eleventh, thirteenth and fourteenth sections of an act entitled "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company; and the statement required by the said thirteenth section shall be verified by the oath of the president or secretary of the said company; and shall contain among other things, a statement of the amount of the liabilities of the said company or of the property insured by it, the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities; and the statement so required shall be published by and at the expense of the said company, in a public newspaper published in the city of New-York, at least twice a week for four successive weeks, commencing within two weeks from the time such statement shall be made to the comptroller; and immediately after such publication evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Amount of capital stock. § 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation that the said capital stock hath been made good by subscription and payment; or that the capital of the said company hath been made good to the amount of one hundred and fifty thousand dollars, the amount so certified shall

be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 266.

AN ACT for the relief of the German Horse Guards of the city of New-York.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The comptroller and adjutant general of this state, shall examine and audit all accounts and claims, and allow and pay such as shall be just, to those members of the German Horse Guards of the city of New-York, entitled thereto for injuries done to horses belonging to the members of said company, while employed in the service of the state in December one thousand eight hundred and forty-four, and January one thousand eight hundred and forty-five, to aid the sheriff of the county of Columbia in the discharge of his official duties, or as an escort of arms or ammunition. Accounts to be examined and audited.

§ 2. This act shall take effect immediately.

CHAP. 267.

AN ACT to amend an act entitled "*An act for the relief of certain purchasers of lands in the second Oneida purchase of 1829,*" passed May 9, 1846.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Section three of the act entitled "*An act for the relief of certain purchasers of lands in the second Oneida purchase of 1829,*" passed May 9, 1846, is hereby amended so as to read as follows : "*On the surrendering of the certificates as mentioned in the first section of this act, the commissioners of the land office shall, in all cases in which it shall appear to them from the enquiry provided for in the preceding section, that the original purchasers of said lands, (being also present owners,) are of doubtful or of no pecuniary responsibility, and in all cases in which both the present owners and original purchasers shall so appear to be of doubtful or of no pecuniary responsibility, sell to the persons interested or to those holding under them the lands so bought*" Section three amended.

by them at the sale aforesaid, at a price equal to the present value of the same, exclusive of the improvements made thereon since said sale, and shall deduct therefrom the payments made for principal of the purchase money; and compute interest on the balance for such time as the interest has not already been paid, and shall issue new certificates to the holders, and take their bonds for the amount of such balance and interest, in the usual manner, payable at the usual time or times, and with the like condition of bonds in such cases.

Section four
amended.

§ 2. Section four of said act is hereby amended so that the word "though" occurring near the end of said section shall read "through."

§ 3. This act shall take effect immediately.

CHAP. 268.

AN ACT to amend an act entitled "*An act to establish a permanent exterior street or avenue in the city of New-York, along the easterly shore of the North or Hudson river, and for other purposes,*" passed April 12, 1837, and to amend an act entitled "*An act creating a public fund or stock in the city of New-York, to be called 'The Croton Water Stock,' and in relation to the sinking fund of said city,*" passed May 13, 1845.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Eleventh
avenue to be
extended.

§ 1. The Eleventh avenue shall be continued and extended along the present line thereof from its present southerly termination at Nineteenth-street to Seventeenth-street, and Eighteenth and Nineteenth-streets shall be continued and extended along their present respective lines from their present westerly termination to the easterly line of the Thirteenth avenue, as laid out on a map drawn by Edwin Smith, city surveyor, bearing date February tenth, one thousand eight hundred and forty-six, entitled "Map shewing an extension of Eighteenth and Nineteenth-streets and the Eleventh avenue," and approved by the mayor, aldermen and commonalty of the city of New-York, passed in common council on the thirty-first day of March, one thousand eight hundred and forty-six, (which map is filed in the office of the street commissioner of the city of New-York.") But nothing herein contained shall be construed to terminate the Eleventh avenue on the easterly side thereof, from the north-erly side of Seventeenth to Fourteenth-street.

§ 2. The proprietors of all former grants of land under water, or of water lots adjacent to and fronting on the Eleventh avenue, between Seventeenth and Nineteenth-streets, shall have the pre-emptive right in all grants to be made by the said mayor, aldermen and commonalty of the city of New-York, of any lands lying under water, or water lots lying between Seventeenth and Nineteenth-streets and the Eleventh and Thirteenth avenues, as laid down on said map, on paying the following sums in gross as a consideration for the same, to wit: For the grant of land under water, or water lots lying between Eighteenth and Nineteenth streets, and the Eleventh and Thirteenth avenues, three hundred and sixty-eight dollars; for the grant of land under water, or water lots lying between Eighteenth-street and the line of the centre of the block between Seventeenth and Eighteenth-streets, and the Eleventh and Thirteenth avenues, one hundred and thirty-one dollars and thirty-three cents; and for the grant of land under water, or water lots lying between Seventeenth-street and the said centre line, and the Eleventh and Thirteenth avenues, one hundred and six dollars and sixty-four cents.

Water lots,
how to be
sold.

CHAP. 269.

AN ACT in relation to *Flushing avenue in the city of Brooklyn.*

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Flushing avenue, as the same has heretofore been opened, is hereby confirmed, and all the proceedings for the opening of said avenue are hereby declared to be lawful.

Avenue con-
firmed.

§ 2. The said avenue as now opened under proceedings had by the common council of the city of Brooklyn, is hereby declared to be a public street, notwithstanding the same may have been opened on a line different from the line laid down by the commissioners for laying out the city of Brooklyn.

Declared a
public street.

§ 3. This act shall take effect immediately.

CHAP. 270.

AN ACT to provide for the enrolment of the Militia, and to encourage the formation of uniform companies.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Citizens sub-
ject to militia
duty

§ 1. All able bodied white male citizens between the ages of eighteen and forty-five years, residing in this state, and not exempted by the laws of the United States, and the provisions of this act, shall be subject to military duty, excepting,

Exempts.

1. Officers in the army of the United States ;
2. Ministers and preachers of the gospel ;
3. Persons who have been or hereafter shall be regularly discharged in consequence of the performance of military duty, in pursuance of any law of this state, and such firemen as are now exempt by law ;
4. Commissioned officers who shall serve as such in the militia of this state or in any one of the United States for the space of five years ; but no such officer shall be so exempt, unless by his resignation after such term of service duly accepted, or in some other lawful manner, he shall have been honorably discharged ;
5. Every non-commissioned officer, musician and private of every uniform company or troop raised or hereafter to be raised, who has or shall hereafter uniform himself, and whose term of service in such company or troop shall amount to seven years from the time of his enrolment therein, shall be exempt from military duty, except in cases of war and insurrection.
6. All persons except commissioned or warrant officers, and members of uniformed companies duly organized, who shall annually commute for military duty by paying to the collector or receiver of the town or ward in which he resides the sum of seventy-five cents, between the first day of May and the first day of November in each year, such collector or receiver shall give duplicate receipts therefor, and such receipts or his return thereof, shall be the sole evidence of such exemption, and where one of such duplicates shall have been delivered to the commandant of the company within the bounds of which such person shall reside, such persons shall not be returned or fined for any delinquency or deficiency in respect to any military rendezvous, parade or training, during the year in which such certificate was given ;
7. Any member of the religious society of friends, or other

person having conscientious scruples against doing military service, may at any time, between the first day of May and fifteenth day of August in each year, deliver to an assessor of the town or ward in which he resides, an oath or affirmation in writing, that he has conscientious scruples against doing military service, which oath or affirmation may be made before any assessor or justice of the peace; such oath or affirmation shall be filed and preserved by the said assessor; and such assessor shall give to the person making such oath or affirmation, duplicate certificates that such person has delivered to him such an oath or affirmation; and shall also, when the assessment roll of his town or ward for that year is completed, annex to the same a list of all persons who have filed with him the aforesaid oath or affirmation; and thereupon the same proceedings shall be had for the collection of the sum of seventy-five cents, from each of said persons, as are directed and authorized by the provisions of chapter tenth of the first part of the Revised Statutes, in respect to the collection of a commutation of four dollars from persons who should elect to commute for the performance of military duty, as provided for in that chapter; and the board of supervisors shall issue their warrant for collection thereof, in the manner specified in such chapter; such assessors for taking such oath or affirmation, and giving such certificate, shall be entitled to a fee of twelve and a half cents, to be paid by the person entitled to said certificate; the making and delivering of such oath or affirmation shall not excuse the person making the same from doing military duty, unless he shall deliver one of the said duplicate certificates so to be given by the assessor to the commandant of his company before the twentieth day of August of the year for which such certificate was given. No person named in any such certificate shall be bound to appear at any parade, or be returned to any court martial for not doing military duty for the year for which such certificate was given; the sums to be collected as commutations by the collectors under this section shall be paid by the collectors to the county treasurer.

§ 2. All able bodied white male citizens between the ages of eighteen and forty-five years, not exempt by the laws of the United States, shall be enrolled by the commanding officer of the company district in which they shall respectively reside, and report the same in an alphabetical list to the inspector of his brigade. Persons to be enrolled.

§ 3 The commander-in-chief shall cause the state to be divided into eight military division districts, according to population, describing the boundaries thereof; which description shall be published and filed in the adjutant-general's office, and transcribed into a book to be kept for that purpose. State to be divided into 8 division districts.

Brigade districts.

§ 4. As soon as the boundaries of such division or district shall be completed and filed in the adjutant-general's office, the commander-in-chief shall direct the major-general of infantry highest in rank, residing in the bounds of any such division and then in commission, to divide his division district into two brigade districts, according to population. Each major-general so appointed, shall cause a description of the boundaries of such brigades to be made, and when approved of by the commander-in-chief, to cause the same to be published in general orders and a copy thereof to be filed in the adjutant-general's office.

Regimental districts.

§ 5. As soon as the boundaries of each brigade shall be filed in the adjutant-general's office, the commander-in-chief shall order the brigadier-general highest in rank in each brigade district, to divide his brigade district into four regimental districts, according to population, and when such division shall be approved of by the commander-in-chief, he shall cause a description of such boundaries to be filed in the adjutant-general's office, and published in general orders.

Company districts.

§ 6. As soon as the boundaries of each regimental district shall be filed in the adjutant-general's office, the commander-in-chief shall order the colonel highest in rank, residing in such regimental district to cause his regimental district to be divided into eight company districts, according to population, and when such division shall be approved by the commander-in-chief, to forward a copy thereof to the adjutant-general to be filed in his office, and to cause the same to be published in orders.

All to be numbered.

§ 7. The commander-in-chief shall cause each company, regiment, brigade and division, to be numbered in such manner as he shall deem proper, and best calculated to secure uniformity. Each company, regiment, brigade and division shall be known by its number and designation, which shall be registered in the adjutant-general's office.

Commanding officers.

§ 8. The major-general in commission, and highest in rank, residing in any such division district, shall be the commanding officer of such division; the brigadier-general in commission and highest in rank, residing in any such brigade district, shall be the commanding officer of such brigade, and the field officers now in commission and residing within the bounds of any such regimental district, highest in rank, shall be the field officers in command in such regimental district; and in any case where an equality of rank shall occur, the rank shall be determined by casting lots as provided by the laws of the United States, and all other commissioned officers, excepting as hereinafter provided, shall be exempt from doing any military duty except in war and insurrection, but entitled

to all the privileges now provided by law. The field officers for each regiment shall be elected in the same manner as is now provided by law, after the year one thousand eight hundred and forty-seven.

§ 9. There shall be one uniform company in each company district, organized as hereinafter provided. Uniform.

§ 10. As soon as the boundaries of each company district in the several regimental districts in this state shall be filed in the adjutant-general's office, he shall cause the commanding officer of each uniformed company in the state, to furnish him an alphabetical list of the names of each officer, non-commissioned officers, musician and private in his company who shall be in full uniform at the time such list is made, suited to the corps to which he may belong, certified under his oath, to be true in all respects, which list shall be filed in the adjutant-general's office. Alphabetical list to be made.

§ 11. All commissioned, non-commissioned officers, musicians and privates, who shall be thus returned to the adjutant-general as aforesaid, and who shall comply with the provisions of this act in all respects, shall severally constitute members of the uniform companies to be hereafter raised in the company districts in which they respectively belong, except as hereinafter provided: *Provided*, however, that in any one company district there shall be but one uniform company of sixty-four men, including officers; and if in any case the number shall exceed sixty-four men, the commandant of the company shall reduce the number to sixty-four, by striking from the enlistments such privates thereof who shall have served as members of any uniform company the greatest length of time, as shall appear from the enlistments and other evidence; and all persons so stricken off and discharged, shall be exempt from military duty, except in war and insurrection. Uniform companies.

§ 12. As soon as the boundaries of companies as aforesaid shall be filed in the adjutant-general's office, the commander-in-chief shall cause some suitable person residing in the bounds of such company to open a book to be provided by the adjutant-general, in which he shall enter the names of all volunteers subject to military duty, residing in his company district, or who may lawfully join such company under the provisions of the twenty-first section of this act, who shall make application to become members of such uniform company in such district; and it shall be the duty of such officer or person so appointed, to give notice in writing by posting the same up at least in ten of the most public places in his district, of the time and place that such books shall be opened to receive the names of volunteers. Names of volunteers to be entered in a book.

§ 13. Any member of a uniform company whose name shall be reported to the adjutant-general as specified in section Privilege of member in full uniform.

tion ten of this act, who shall cause his name to be entered in such book, and shall produce the certificate of his captain or commanding officer, that he was in full uniform at the time this act took effect, shall be entitled to hold his place and rank in the company to be raised in such district, but subject to the provisions of this act.

Meeting of
volunteers.

§ 14. Twenty days after such book shall be opened for volunteers, or as soon thereafter as fifty-eight men or more, subject to military duty, shall have volunteered as aforesaid, the officer or person so appointed shall fix a time and place for the meeting of the same, by giving at least ten days' notice thereof in writing, posted up at least in ten of the most public places within his company district, whose duty it shall be to attend at said meeting, and present the books aforesaid, containing the names of volunteers, and to insert therein the names of all present who shall volunteer to form a company.

Balloting,
how con-
ducted, to fill
up company.

§ 15. It shall be the duty of such officer to act as chairman, to organize the meeting by calling the names of each volunteer whose name is written in said book, together with the names of all members of uniform companies who have caused their names to be written in said book as aforesaid, and who have been properly returned to the adjutant-general as being in full uniform, as specified in this act. He shall then cause the name of each volunteer not a member of of such uniform company as aforesaid, who has answered to his name, to be written on pieces of paper of the same color and size, and so folded that the name shall be concealed from sight, and in such manner that the shape and size shall resemble each other, and place the same in a box or hat, mixing them well together, and drawing therefrom the number; which, when added to the names of the members of any uniform company heretofore existing, whose names are written in said book as aforesaid, shall amount to fifty-eight names; and in case there shall be no members of any uniform companies residing in such company district who have complied with the provisions of this act as aforesaid, in that case he shall draw the names of fifty-eight persons who shall constitute the uniform militia of such district.

Notice of
election of
officers.

§ 16. The chairman of the meeting after declaring the result, shall give notice by proclamation to the members of such company, that an election will be held for the choice of suitable persons to fill the offices in such company.

Company
officers.

§ 17. To every such company there shall be one captain, one first, one second lieutenant, four sergeants and four corporals.

Chairman.

§ 18. Such chairman shall preside at such election in the same manner and with the same powers, and shall perform the same duties, and make the like returns as the commandant of brigade is now required by law.

§ 19. The electors, members of such uniform company, shall then proceed to the choice of their commissioned and non-commissioned officers in the manner now provided by law for the choice of militia officers, except that it shall be competent for such electors to make choice of any suitable person subject to military duty, residing within their district as a commissioned officer of such district, whether he shall have volunteered as a member of such company or otherwise, or whether he may at the time be a commissioned officer rendered supernumerary by this act, or otherwise. And if by a choice of offices from the company, or from other cause, the number of privates and non-commissioned officers shall be reduced to a less number than fifty-eight, then the commanding officer of the company shall receive volunteers until there are fifty-eight non-commissioned officers and privates in said company.

Election, how to be conducted.

§ 20. Non-commissioned officers shall be chosen from the members of the company to which they shall belong. The musicians, not exceeding three in number, shall be appointed by the commandant of each uniform company.

Non commissioned officers and musicians.

§ 21. The existing uniform companies in any of the cities of this state, which shall be fully uniformed at the time of the passage of this act, and all other uniform companies hereafter organized in pursuance of this act, in any such city, may consist of members residing in any of the company districts located within such city, but there shall not be more companies than there are company districts; and no company shall consist of more than sixty-four members. The officers of each existing uniform company, and those hereafter organized in pursuance of this act, in any city, shall respectively have command of a company district within their respective cities, and perform all the duties required by this act, to be performed in any such district. The commander-in-chief shall designate the company officers who shall have command of each of such districts respectively.

Provision respecting existing uniform companies in cities, &c.

§ 22. Every person thinking himself aggrieved by the proceedings at any election aforesaid, shall have the same redress as is now provided by law in like cases.

Redress of grievances.

§ 23. The commander-in-chief shall issue commissions to all officers duly elected, who shall be chosen as above provided, and shall assign and determine the corps and particular arm of the militia to which such company shall belong. The term of office of all staff officers shall expire when the person appointing them shall retire from office.

Commissions, when to be issued.

§ 24. There shall be erected or rented, within the bounds of each regiment in this state, a suitable armory or place of deposit, for the safe keeping of such arms and camp equi-

Armories to be erected or rented

Restriction.

§ 6. The said corporation shall not erect or keep up any toll-gate within the limits of the village of Geneva.

The part
abandoned
to be a pub-
lic highway.

§ 7. So much of the road of the said corporation as it is authorized by this act to abandon, shall, when so abandoned, be a public highway; and the commissioners of highways of the several towns in which the portion of the said road so authorized to be abandoned lies, shall, when so abandoned, cause the same to be districed and worked in the same manner as other highways in the said towns are required by law to be districed and worked.

§ 8. This act shall take effect immediately.

CHAP. 317.

AN ACT in relation to the sinking fund of the Hudson and Berkshire Railroad Company.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Sinking fund
how to be
applied.

§ 1. It shall be lawful for the Hudson and Berkshire Railroad Company to withhold the payments to the sinking fund of said company, which are required to be made by the sixth section of the act entitled "An act in aid of the Hudson and Berkshire Railroad Company," passed April 28, 1840, on the first days of January in the year one thousand eight hundred and forty-six, and the two following years; provided said company shall appropriate the entire receipts of said road, after paying therefrom the interest on the stock loaned the said company and the necessary expenses of running the same, upon the repairs and improvements that shall be necessary and useful upon the said railroad, and furnish satisfactory evidence thereof to the comptroller within six months from the first day of January, in each of said years.

§ 2. This act shall take effect immediately.

CHAP. 318.

AN ACT to amend an act entitled "*An act in relation to the construction of the New-York and Erie railroad,*" passed May 14, 1845.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "*An act in relation to the construction of the New-York and Erie railroad,*" passed May 14, 1845, is hereby amended by striking out the word "one" in the first, and the same word in the eleventh section, where that word occurs in those sections before the word "year," and by inserting in the same sections immediately preceding the word "year" the word "two," and the said act shall have the same effect as if in the said first and eleventh sections thereof the word "two" had been inserted, immediately preceding the word "year" instead of the word "one." Amendment

§ 2. The legislature may at any time alter, amend or repeal the same. Right to repeal

§ 3. This act shall take effect immediately.

CHAP. 319.

AN ACT to incorporate the *American Agricultural Association.*

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who now are, or who may hereafter become associated for the purposes of this act, are hereby constituted a body corporate, by the name of "*The American Agricultural Association,*" for the purpose of promoting the improvement of agriculture and its kindred arts, by introducing into their practical operation, scientific knowledge. Corporation created.

§ 2. For the purposes aforesaid, the association shall possess the general powers and privileges, and be subject to the general liabilities contained in the third title, of the eighteenth chapter, of the first part of the Revised Statutes, so far as the same may be applicable and have not been modified or repealed ; but the real and personal estate which the said association shall be authorized to take, hold and convey, over and above its laboratory, library and collections, shall General powers.

shall not leave such parade without permission, until sundown, at which time they shall be dismissed.

Duty of commanding officer of the day.

§ 38. The commanding officer of the day at any such parade, may cause those under his command to perform any field or camp duty he shall require ; and also to put under guard for the day or time of continuing such parade, any officer or soldier who shall disobey the orders of his superior officer, or in anywise interrupt the exercises of the day ; also all other persons who shall trespass on the parade ground, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms, and also may prohibit and prevent the sale of all spirituous liquors, (except by licensed houses,) within one mile of such parade or encampment, and also in his discretion, all huckster or auction sales, or gambling may be abated as nuisances.

Volunteer companies to be numbered

§ 39. The several volunteer companies of cavalry, artillery, light infantry, riflemen, grenadiers and infantry, shall be numbered in the corps to which they respectively belong, and a record made of such numbers in the adjutant-general's office ; and each and every such company shall be subject to the orders of the commanding officer of the regiments within whose bounds such company shall be located, to which commanding officer the commanding officer of such company shall make his proper returns annually, as required by law, or in orders.

Term of service seven years.

§ 40. Every non-commissioned officer, musician and soldier of any uniform company in this state, shall be holden to do duty therein for the term of seven years from his enlistment, unless disability after enlistment, should absolutely incapacitate him to perform such duty, or he should be regularly discharged by the proper officer; and all commissioned officers and non-commissioned officers, musicians and privates of uniformed companies, shall be exempt during such time of service from jury duty, and shall be allowed two days' deduction from their assessment of highway labor, if so assessed.

Notice of encampment, &c.

§ 41. All orders for encampment, inspection and review, shall be published at least twenty days previous to such parade; and all commanding officers of companies may, on any parade, read brigade, regimental, or battalion orders, and notify the soldiers and officers of their several commands to appear as specified in said brigade or regimental order for the purposes therein contained, which notice shall be a sufficient warning.

Penalty for neglect.

§ 42. Every officer, non-commissioned officer, musician and private of any uniformed company, who shall unnecessarily neglect to appear on the days and at the time and place appointed for such duty, agreeably to the provisions of

this act, shall forfeit his annual pay, and also forfeit and pay two dollars for each and every day for such neglect ; and the certificate of the commanding officer of any company shall be received as competent evidence of such neglect or refusal to do this duty as above provided, or any other duty required by this act.

§ 43. No company of volunteers in this state shall consist of more than sixty-four men, including all officers, musicians and privates. Number in each company.

§ 44. The commanding officer of every uniform company in this state shall, after each and every parade required by law, make out alphabetical lists of the names of the persons, not exceeding sixty-four in number who shall have appeared armed, uniformed and equipped according to law, and performed duty in his company on each day of said parades, and shall deliver the same, certified under his oath to be correct and true in all respects, to the mayor of any city or the supervisor of any town in which any person performing duty in his company shall reside : provided however, that said return need not contain any other names than those of the persons residing in the town to which the return is made. Lists to be made out.

§ 45. The mayor of each city, and the supervisor of each town to whom the return in the preceding section is made, shall, on or before the fifteenth day of November annually, make out a complete list of all the persons in each uniform company who appear from said roll to be entitled to be paid for militia service, and shall, after the per diem shall be fixed by the adjutant-general, and after the first day of January annually, draw their warrants on their respective treasurers of each city and county, directing them to pay the amount due to the persons named in said lists ; and the mayors and supervisors aforesaid shall return to the adjutant-general, on or before the first day of December annually, the lists of the persons so to be paid ; and the adjutant-general shall, on or before the first day of January, ascertain from the returns so made to him, the amount of money which will be necessary to pay to each officer and soldier of the uniform corps in this state, according to the provisions of this act, and submit the same to the commander-in-chief, who is hereby authorized to draw in favor of the county and city treasurers his warrant on the treasurer of this state, to be paid out of any moneys not otherwise appropriated, for the payment of any sum that may be required to meet the deficiency in any city or county treasury for such purpose. Supervisors of towns and mayors of cities to make lists.

§ 46. Any officer who shall neglect to make the returns required in the preceding sections shall be liable to a penalty not exceeding one hundred dollars, to be recovered and paid into the treasury of this state. Penalty for neglect.

Roster of
staff officers
to be sent to
adj. general.

§ 47. All commanding officers of divisions, brigades and regiments shall annually, on or before the fifteenth day of November, transmit to the adjutant-general, a correct roster or list of the names of the persons in their staffs respectively, who shall be in complete and full uniform suited to the corps to which he may belong, and of the number of days each shall have done duty in full uniform required by law, certified to, under his oath that the same is true and correct in all respects; and the adjutant-general shall present the same to the commander-in-chief, who shall draw his warrant on the treasurer directing him to pay the amount due the persons named in the said rosters or lists, after the adjutant-general shall have fixed the per diem allowance each shall be entitled to receive.

Penalty for
neglect.

§ 48. Any such commanding officer who shall refuse or neglect to make a correct return as required in the preceding section shall be liable to a penalty of not exceeding five hundred dollars, to be recovered and appropriated as in the manner provided for other fines in the eighty-second section of this act.

Vacancies in
companies
how to be
filled.

§ 49. Whenever the number of members in any uniform company shall be reduced to a less number than fifty-eight, by death, removal or inability to bear arms, the commanding officer shall give notice in writing by posting the same up at least in five of the most public places in his district, of the number of men required to fill his company, and of the day or days on which he will receive and continue to receive volunteers to enlist in his company; and on such day he shall record in a book to be kept for that purpose the names of all such who shall make application to volunteer, and as the requisite number of able bodied men liable to do military duty in such district shall so volunteer by writing, or directing his name to be registered in the volunteer book aforesaid, shall constitute such members; providing always, that whenever the number who shall so volunteer, shall exceed the number required, it shall be the duty of such commanding officer to draft the number required, from those who have thus volunteered in the manner provided in section fifteen of this act, and when so drafted shall perform all of the duties required of the members of such company.

Officers how
chosen after
first election.

§ 50. All commissioned and staff officers, and all non-commissioned officers and musicians, after the first election for officers in each company district, shall be chosen and appointed as now provided in the tenth chapter, part first of the Revised Statutes, and not inconsistent with this act.

Un-uniform-
ed militia.

§ 51. All able bodied white male citizens of this state, and not regular uniformed members of any company, and who are not exempted as specified in this act, and who have

not commuted as provided in section one, shall constitute the ununiformed militia of this state, and as such shall be attached to the uniformed companies, in whose bounds or company district they shall respectively reside, and as such shall, after being duly notified of their enrollment, within six months arm and equip themselves as prescribed by the laws of the United States.

§ 52. All such ununiformed militia shall meet with the uniformed companies to which they shall be respectively attached, at the time and place appointed for any parade, in pursuance of this act, armed and equipped as the law directs, for inspection, training, disciplining and improving in martial exercise. When to meet for inspection.

§ 53. For the purpose of warning the commissioned, non-commissioned officers, musicians, uniformed and ununiformed privates of any company to attend any parade or place of rendezvous required by law, the commandant of each company shall, at least ten days before any such parade, give notice thereof in writing, by posting the same up at least in ten of the most public places in his company district, specifying in such notice the place of parade and the day on which each member of his company shall appear respectively. How to be warned.

§ 54. The commandant of any company may, if he shall deem it proper, cause his non-commissioned officers to warn personally all or any part of his company to any parade : and if such notice be given one day before any parade, shall be deemed sufficient notice. 1b.

§ 55. Every un-uniformed private, who shall be regularly enrolled and duly notified thereof as herein before prescribed, and who shall not have commuted before as aforesaid, and who shall refuse or neglect to appear at such parade as specified in the preceding section, shall pay a fine of three dollars. For every other delinquency and deficiency he shall pay the same penalties now prescribed by law. Penalty for neglect.

§ 56. The un-uniformed militia attached to the uniform companies in the several company districts in this state, who shall not have commuted as aforesaid, shall meet at the time and place annually appointed for encampment and inspection, and shall perform all the duties required by the commanding officers of their respective companies at such encampment or parade. To meet at encampment

§ 57. The commanding officer of each company district in this state, shall, from time to time, enroll all persons subject to military duty residing within the limits of his company district, and shall without delay notify such persons of their enrollment, or cause it to be done by any of his subalterns or non-commissioned officers, by whom such notice may be proved. Enrollment of militia.

Names, how
to be entered

§ 58. Such commanding officer shall cause the names of all such persons enrolled to be entered alphabetically in a book to be kept by him for that purpose, designating the date of each enrollment and place of residence, also whether belonging to the uniform or un-uniformed militia; and shall annually report the same to his brigade inspector, to enable him to report the same to the adjutant-general.

List to be
delivered to
the town
collector.

§ 59. Such commanding officer shall, on or before the first day of May in every year, make out a complete alphabetical list of all the persons subject to do military duty residing within his company district, (except the uniform members of his company,) who shall have been regularly enrolled, and duly notified of the same; and shall deliver the same, certified under his oath to be correct and true in all respects, according to the best of his belief, to the collector of the town or ward, or to the receiver of taxes in any city, in which any person so enrolled shall reside: Provided, however, that said list need not contain any other names than those of the persons residing in the town or ward or city in which such collector or receiver shall reside, whose duty it shall be to receive the same and perform all the duties as hereinafter required in relation thereto.

Persons to be
exempt on
paying 75
cents.

§ 60. Every person whose name shall be written on such list mentioned in the last preceding section, who shall pay to such collector the commutation of seventy-five cents, on or before the day of the annual parade of the un-uniformed militia, shall be exempt from doing any military duty at any of the parades required by law in this state, during the year for which it shall be paid.

Collector to
give receipt.

§ 61. It shall be the duty of such collector or receiver to receive such commutation money from time to time as required by this act, and to give to the person so commuting, a receipt for the same, stating the town or ward in which the same shall be so paid, which receipt shall be sufficient evidence to the person paying the same, of his exemption as aforesaid.

To pay the
money to
county
treasurer.

§ 62. Such collector or receiver shall, on or before the tenth day of November in every year, pay all moneys received by him as commutation for military duty, to the treasurer of the county or city in whose bounds he shall reside; retaining on all such monies paid, seven per cent as his compensation. The treasurer to whom any such moneys shall be paid, shall deliver to the collector duplicate receipts therefor, one of which duplicates shall be filed by the collector with the county treasurer, and shall entitle him to a credit in the books of the county or city treasurer, for the amount therein stated to have been received; and no other evidence of such payment shall be received by the county or city treasurer.

§ 63. The collector or receiver shall also, at the time he pays such commutation moneys to any such treasurer, produce the list or lists of names of the persons who shall have so commuted, and such treasurer shall endorse his certificate on such list or lists, stating the amount received on each particular list; and such lists, when so certified to, shall be returned by such collector to the commanding officer of the company from whom it was received, on or before the tenth day of November in every year. And produce list of names.

§ 64. If any collector or receiver shall refuse or neglect to pay to his county or city treasurer the moneys required by this act, or either of them, or to account for the same as unpaid, or to perform any duties required by this act, he or his sureties shall forfeit to the people of this state the sum of not less than twenty-five dollars or more than one thousand dollars, to be recovered by any court of competent jurisdiction. Penalty for neglect.

§ 65. As soon as the collector or receiver shall return to the commandant of the company the list or lists as aforesaid, certified by him to be true in all respects, such commandant shall transcribe therefrom in a book to be kept by him for that purpose, all the names of the persons which shall appear on such lists, and the names of all the persons if any, who shall have been regularly enrolled subsequently to the first day of May, and before the annual encampment, and parade, who have not commuted as aforesaid, and such commandant on the day appointed for the un-uniformed militia to parade, shall require the names of all such persons to be read in the company to which they respectively belong, at roll call in the forenoon of such day, and all such as shall not appear and answer to their names at such roll call, armed and equipped as the law directs, and perform military duty as required at such parade, shall be liable to the penalties prescribed by this act. Lists to be copied by commandants of companies.

§ 66. It shall be the duty of the commandants of companies to keep a book or books in which he shall on the day of any parade required by law, register the names of delinquents for non-appearance, disobedience of orders, unofficer, or unsoldierlike conduct, or neglect of duty, and the names of all persons who shall be deficient in uniform, arms, equipments, or accoutrements; and opposite to and under such names he shall state first, (as the case may occur) absence at any roll call (stating the day and the hour on which roll call was made;) second, disobedience of orders, and what; third, refusal and neglect of duty, and what; fourth, unofficer and unsoldier-like conduct, and what; fifth, deficiency in arms and equipments, and what. Each of the above delinquencies and deficiencies shall in such book or books, be fully written and expressed, with such explanations Book containing names of delinquents to be kept.

as he may deem proper to make; and to each offence he shall affix the penalty imposed by law each person so offending shall be liable to pay; and shall at the close of any parade, notify, or within five days thereafter, cause to be notified by any commissioned or non commissioned officer, all such persons as shall have incurred any penalties imposed by law, and the amount thereof. Also the day on which appeals will be heard by the commanding officer of the regiment.

To be delivered to commanding officer of regiment.

§ 67. It shall be the duty of the commandants of companies within ten days after any parade, to deliver such book or books to the commanding officer of his regiment, certified to, that each delinquent therein named has been duly notified thereof.

Right of appeal.

§ 68. Every such non-commissioned officer, musician and private who shall be returned in such book or books to the commanding officer of his regiment, as being liable to any of the penalties therein mentioned, may appeal to such commanding officer to remit or mitigate any such penalty.

Time to be fixed for hearing appeals.

§ 69. Such commanding officer of a regiment shall cause to be read in orders at each roll call on any day of parade required by law, the time and place, within ten days after such parade, where he will hear all appeals made to him for the remission of any penalty incurred by any non-commissioned officer, musician or private under his command, for the non-performance of any military duty required by the laws of this state or the United States.

Power of commanding officer to hear and determine appeals.

§ 70. Such commanding officer of regiment shall have power and authority to hear and determine all such appeals, to issue subpoenas for all witnesses, whose attendance at such appeal may in his opinion be necessary in behalf of the people of this state, and also on application for all witnesses in behalf of any non-commissioned officer, private or person returned for any delinquency or deficiency. He shall also have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn, and testify, and to preserve order as courts of common law jurisdiction; and all sheriffs, jailors and constables are hereby required to execute any precept issued by such officer for that purpose; and in all respects shall have the same power and jurisdiction as the president of any court martial appointed in pursuance of law for the trial of commissioned officers.

His decision to be final.

§ 71. All appeals required by this act to be made to such commanding officer of regiment to be remitted or mitigated, after he shall have considered and decided on the same, shall be final. He shall then immediately transcribe the names of all the persons liable for any fine incurred, and not remitted, in a book to be kept by him for that purpose, and return the

former to the commandant of the company of whom he received it.

§ 72. Within ten days after the time shall have expired in which he shall have appointed to hear appeals, he shall make an alphabetical list of all the persons of whom fines are to be collected, designating the company to which they respectively belong, the sums imposed as fines on each person, and shall draw his warrant under his hand and seal, directed to any constable of any city or county (as the case may be) who shall take such warrant and discharge and perform all the duties required therein, which duties shall be the same as now required in cases of warrants directed by presidents of regimental courts-martial for the collection of fines.

He shall make list of persons from whom fines are to be collected.

§ 73. Every such constable to whom any such list and warrant shall be directed and delivered, shall execute the same in the manner as now provided by law in such cases, and shall receive the same fees for collection with the additional sum of seven cents as costs on each dollar therefor. He shall also make return of such warrant and all moneys collected thereon in the manner provided now by law in such cases; and shall have power to collect fines on any such warrant in any county where any person named on such list may be found.

Duty of constables.

§ 74. Every constable who shall refuse or neglect to take any such warrant for the collection of fines when presented to him for such purpose by any such commanding officer of regiment, or refuse or neglect to discharge and execute any duty or act therein required, shall, for every such refusal and neglect forfeit to the people of this state the sum of not exceeding one hundred dollars, to be recovered by such commanding officer of regiment, before any court of competent jurisdiction.

Penalty for neglect.

§ 75. The sureties which shall be hereafter given by any constable elect, shall be deemed liable to pay to such commanding officer of regiment, all such sums of money as the said constable may become liable to pay on account of any warrant which shall be delivered to him for collection.

Sureties liable.

§ 76. Every person who shall have incurred any fine may pay the same to the commanding officer of his regiment, on the day of hearing appeals, who shall receive the same without fee or charge of any kind, who shall enter the name of the person paying the same, and the amount paid, in a book which he shall keep for that purpose.

Fines, how paid in certain cases.

§ 77. Such commanding officer of regiment shall pay all moneys received by him, to the treasurer or receiver of any city or county in which such commanding officer may reside.

Moneys to be paid to treasurer.

Treasurer to account. § 78. It shall be the duty of such treasurer or receiver to require such commanding officer to render an account of all moneys received by him on account of fines, and of all fines imposed, at least once in every year, at such time as they shall deem proper.

Penalty for neglect. § 79. Every such commanding officer who shall wilfully neglect or refuse to comply with such request, for the space of ten days, shall be liable to be tried and cashiered, and fined in a sum not to exceed one thousand dollars.

Courts of inquiry. § 80. All courts of inquiry may be instituted as now provided by law, but no such court shall consist of more than one officer, who may, if approved of by the officer ordering the court, require a judge-advocate to attend such court, in taking testimony and in investigating any complaint that may come before such court.

Courts martial. § 81. All other courts-martial for the trial of officers shall be ordered and conducted as now provided by law; but no such court shall consist of more than three officers.

Warrant to be issued to sheriff. § 82. The president of such court-martial shall issue his warrant for the collection of all fines imposed by said court, directed to the sheriff of the county in which the court was held and in which the delinquent resides, whose duty it shall be to collect such fines in the same manner as he is authorized to collect any debt upon a civil process, together with lawful costs, and the amount of the fine to be paid into the county treasury.

Expenses. § 83. The expenses of all such courts shall be allowed and paid as now provided by law.

Collectors to give bond. § 84. Every collector or receiver of any town, ward or city, in addition to the surety he is now required by law to give for all moneys received by him, shall, before he enters upon the duties of his office, give a bond with sureties in a sufficient sum, to be approved of by the supervisor of any town, ward or city of which he shall be a resident, for the faithful payment of all moneys received by him, into the treasury of the county or city in which he shall reside.

County treasurer to report to state treasurer. § 85. All county and city treasurers or receiver of taxes shall report to the treasurer of the state the amount of all moneys received as fines or commutation money by them respectively by the first day of December annually. They shall also report to the state treasurer by the first day of March, annually, the amount and to whom paid, as before directed by this act, for militia service, and shall pay over to the treasurer of the state the balance, if any in their hands respectively, of such fines and commutation money.

Pay of officers, non-commissioned officers, musicians and privates. § 86. There shall be paid for services rendered during the year eighteen hundred and forty-six, and annually thereafter for the same services as directed by this act, not to exceed

the sums as follows : To every commissioned, noncommissioned officer, musician and soldier, as specified in this section, while actually engaged, in full uniform, on parade and duty, viz :

1. To all noncommissioned officers, musicians and privates of any uniform corps, organized in pursuance of this act, for every day actually on duty at any parade or encampment required by law, one dollar each :

2. To all commissioned officers of the line, below the rank of captain, one dollar twenty-five cents ;

3. To all commanding officers of companies, one dollar fifty cents each :

4. To all field officers below the rank of colonel, one dollar seventy five cents each ;

5. To all commanding officers of regiments, two dollars each for every day while on any parade, and in addition one dollar twenty-five cents for each day actually employed on hearing and deciding appeals for the remission or mitigation of penalties, not to exceed ten days in any one year ;

6. To all regimental staff officers, one dollar and fifty cents each : and to all noncommissioned staff officers, one dollar ;

7. To all brigadier-generals, while on duty, three dollars each ;

8. To all brigade staff officers two dollars each, except the brigade inspectors, who shall receive three dollars each ;

9. To all major-generals, three dollars and fifty cents each.

10. To all division staff officers, two dollars each.

§ 87. The treasurer of this state shall, annually, on or before the fifteenth day of December, transmit to the adjutant-general a correct statement of the sum total paid into the respective city and county treasuries and the state treasury from fines and commutation money. The adjutant-general shall, from the lists of officers and men returned to him as having performed service in the uniformed militia, and from the report of the treasurer of the state of the amount of fines and commutation money collected, fix the per diem allowance of the officers, musicians and privates, which shall be as near as may be to the sums mentioned in the eighty-eighth* section of this act, but shall not be so high as when added to other necessary expenses created by this act to require a payment in the aggregate greater than the whole amount of fines and commutation money collected in the state. The adjutant-general shall send to the treasurer of each city and county a copy of his decision of the per diem allowance to the different grades of officers and men, and the mayors and

Duty of the
state treasurer
and adjutant-general.

* So in the original; [it ought to read eighty-sixth section.]

supervisors respectively shall draw their warrants in accordance with such decision.

Militia law to be printed in a pamphlet.

§ 88. It shall be the duty of the adjutant-general to cause so much of the militia laws now in force, as are not inconsistent with this act, together with this act, to be printed in pamphlet form, and to distribute one copy to each commissioned officer, and to each town clerk and county treasurer in this state; and also to prepare and cause all necessary blank books, forms and notices to be transmitted at the expense of this state, to carry into full effect the provisions of this act.

No person to be imprisoned.

§ 89. Nothing in this act shall be so construed as to authorize the imprisonment of any person for the nonpayment of any fine or commutation sum provided for by this act. But no property of the delinquent now exempt from execution, shall be so exempt from the payment of his fine.

Repeal.

§ 90. All laws inconsistent with this act are hereby repealed.

Act when to take effect.

§ 91. So much and such portions of this act as authorizes persons to commute on paying seventy-five cents each, as exempts persons having conscientious scruples against bearing arms, as defines the persons who shall be exempt from military duty, and all provisions of the bill necessary to carry out the provisions contained in the portion of this act which are hereinbefore in this section mentioned, shall take effect immediately; but the other parts and provisions of this act shall not take effect until twenty days after the governor shall by his proclamation declare that in his opinion the same may be carried into effect consistently with the safety and interests of the state and the acts of congress in such case made and provided.

CHAP. 271.

AN ACT to perpetuate the evidence of the deaths of Nicholas Van Staphorst and others.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Commissioner to be appointed.

§ 1. The governor shall appoint a commissioner under this act, who shall be of the degree of counsellor in the supreme court, who is hereby authorized to administer the necessary and proper oath or oaths to, and whose duty it shall be to take the deposition or depositions of such person or persons as may be produced before him, respecting the deaths of Nicholas Van Staphorst, Roelof Van Staphorst the younger, Jan Gabriel Van Staphorst

Pieter Van Eeghen, Hendrick Seye, Rutger Jan Schimmelpenninck, Hendrick Vollenhoven, Jan Willink, Jan Willink the younger or junior, and Paul Busti, and the times when and places where such deaths respectively occurred, which deposition or depositions shall be subscribed by the person or persons making the same respectively, and shall be certified by the said commissioner and delivered to one of the justices of the supreme court.

§ 2. The justice to whom such deposition or depositions shall be delivered shall examine the same, and if in his opinion such deposition or depositions shall afford satisfactory evidence of the deaths of the said Nicholas Van Staphorst, Roelof Van Staphorst the younger, Jan Gabriel Van Staphorst, Pieter Van Eeghen, Hendrick Seye, Rutger Jan Schimmelpenninck, Hendrick Vollenhoven, Jan Willink, Jan Willink the younger or junior, and Paul Busti, or any of them, and the times when and places where such deaths respectively occurred, it shall be the duty of the said justice to make a certificate of the facts which shall be thus satisfactorily proved to him, and attach thereto such deposition or depositions as shall have been delivered to him by the said commissioner, and file the same in the office of the secretary of state of this state.

Duty of justice of supreme court.

§ 3. Copies of the said deposition or depositions, with the certificate of the said justice, when duly certified by the secretary of state, shall be prima facie evidence in all courts and places within this state, of the facts certified by the said justice as having been satisfactorily proved to him, except in cases where the person or persons making such deposition or depositions shall be interested; provided however, that any such deposition or depositions and the certificate of such justice, or any duly authenticated copy thereof, shall not be used or read in evidence upon any trial in any court, or in any proceeding before any officer, unless due proof shall be first made that the person or persons making the deposition or depositions so offered in evidence are dead or insane, or unable to attend such trial or proceeding by reason of old age, sickness or settled infirmity, or that such person or persons reside beyond the jurisdiction of such court or officer; and such deposition or depositions or copies thereof, and of the certificate of such justice, when so used or read in evidence, shall have the same effect as the oral testimony of the person or persons making such deposition or depositions would have if given on such trial or proceeding, and no other.

Copies certified by secretary of state to be evidence.

§ 4. Before entering upon the duties of his office, the said commissioner shall take and subscribe an oath of office, and file the same in the secretary's office.

Commissioner to take oath.

Expenses,
by whom
paid.

§ 5. All expenses of carrying into effect the provisions of this act shall be paid by the person or persons who shall procure the services under it to be performed; and the fees and compensation of such commissioner shall be the same as are by law now allowed to examiners in chancery for taking, copying and certifying depositions to be used in evidence in the court of chancery, together with all the necessary postages and expenses in communicating such depositions to a justice of the supreme court.

Examination
of witnesses.

§ 6. Whenever any person shall apply to said commissioner for the examination of any witness, and the taking of the deposition of any person under the provisions of this act, the said commissioner shall appoint a time and place when and where he will attend for that purpose, which time shall not be less than six days thereafter, and the person who shall thus apply to said commissioner shall immediately give notice of the time and place of such examination to the district attorney of the county in which such examination is to be had, whose duty it shall be to attend such examination, and diligently cross-examine each and every person so examined, which cross examinations shall be taken and certified by said commissioner in the same manner as the depositions on the part of the person applying, shall be taken and certified, and the commissioner shall attach such cross examination to the direct deposition of the person making the same, and transmit the same to a justice of the supreme court as hereinbefore provided.

Penalty for
false state-
ment.

§ 7. Any person who shall knowingly make any false statement in any deposition to be taken by and before the commissioner hereinbefore mentioned, shall be deemed guilty of wilful and corrupt perjury.

§ 8. This act shall take effect immediately.

CHAP. 272.

AN ACT respecting the town records of the town of Goshen, destroyed by fire.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly do enact as follows :

Duty of com-
missioners of
highways.

§ 1. It shall be the duty of the commissioner or commissioners of highways in the town of Goshen, to cause the roads and highways therein which have been legally established, to be ascertained so far as the same can be from a survey of the highways of said town on file in the office of the clerk of Orange county, and described and entered of

record in the town clerk's office ; which record shall be as valid and effectual as the original record of the laying out of such roads ; and the said commissioner or commissioners are hereby authorized to examine on oath the overseers of highways in the said town, and all other persons having any knowledge or information respecting such highways, or such highways as may have been laid out in said town by the commissioner or commissioners thereof, or by the judges of said county during the year eighteen hundred and forty-five, and to employ the necessary surveyors and their assistants to survey any of the said roads. And it shall be the duty of the said commissioner or commissioners of said town, to ascertain the amount of damages assessed since the first of July eighteen hundred and forty-five, by jury or otherwise, by reason of laying out of any road or roads in said town, and to cause the same to be delivered to the supervisor of said town, who shall lay the same before the board of supervisors of said county at their next annual meeting, which board shall have the same power in relation thereto, as is given in the sixty-ninth and seventieth sections of article fourth, title first, chapter sixteenth, part first of the Revised Statutes.

§ 2. The town superintendent of common schools of said town shall proceed as soon as may be to cause the school districts and parts of districts in the said town to be ascertained and described by him, and entered of record in the town clerk's office, which record shall be as valid and effectual as the original descriptions of such school districts ; and the said town superintendent may examine on oath any trustee or clerk of any school district, or any other person, touching the boundaries of any school district therein.

Duty of town superintendent of common schools.

§ 3. It shall be the duty of the town superintendent of common schools of the said town forthwith to give notice in writing to the trustees of the said districts, requiring them within thirty days thereafter to make out and return new reports for the last year concerning their districts respectively in the manner required by law and the regulations of the superintendent of common schools ; and it shall be the duty of such trustees to make out and return such reports accordingly, which reports shall be filed in the town clerk's office, and shall be as valid and effectual as the originals ; and the said town superintendent shall, as soon as may be after receiving the same, make out his reports and transmit them to the county clerk, which shall be received and filed by him, and shall be as effectual as if made in the time required by law.

Trustees of school districts to make reports.

§ 4. Any person who may have filed any paper with the town clerk of the said town, or caused any entry to be made in the town record which may have been destroyed by fire,

Papers or entries destroyed may be replaced.

LAWS OF NEW-YORK.

may within three months after the passage of this act, replace such paper, or cause a new entry to be made on the said records, accompanied by an affidavit of such person or the town clerk, specifying that the original was destroyed by fire, and the time when the same was filed or entered of record, which shall be presumptive evidence of the said paper having been made as stated in such affidavit ; and the same shall be as valid and effectual as the original papers on record so destroyed.

Secretary of
state to fur-
nish laws.

§ 5. The secretary of state shall procure and furnish to the said town one set of the second edition of the Revised Statutes, and the laws of this state from eighteen hundred and thirty to eighteen hundred and forty-five inclusive.

Expenses.

§ 6. The necessary expenses incurred by the commissioners of highways and by the town superintendent of common schools, and the clerk of the said town and the judges of said county, in the execution of this act, shall be town charges, and shall be audited, levied and paid as other town charges.

§ 7. This act shall take effect immediately.

CHAP. 273.

AN ACT declaring the River Saranac a public highway.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

River and
main branch-
es declared a
public high-
way.

§ 1. The Saranac river, including the two main branches thereof and lakes connected therewith, is hereby declared a public highway to the lower dam in the village of Plattsburgh, for the floating of timber, logs and lumber, and other proper public uses ; provided however, that nothing in this act contained shall be so construed as to prevent the erection of any dam across said river for the purpose of raising water to carry any mill or machinery, nor the putting of any boom across said river or branches for securing timber and saw logs, or for any other proper or necessary purpose, nor be so construed as to extend to or affect any dam or boom across or mill upon said river now erected or hereafter to be erected, as aforesaid, otherwise than is provided in this act, or may be otherwise provided by law ; and provided further, that nothing in this act contained shall be so construed as to impair or abridge any private or individual rights, and any mill dam hereafter to be erected in said river, shall be constructed with a chute or apron sufficient for the purposes above mentioned.

§ 2. Any person or persons interested in the improvement of the navigation of the said river, or desirous to float logs, lumber or other commodities thereon, may, at his or their own expense, alter any dam now erected, or to be hereafter erected upon said river, by making a chute, slope or apron thereto, so that timber, logs and rafts may conveniently and safely run and be conducted over the same; and may, at his or their own expense, also, so alter or reconstruct such portions of the booms above mentioned and provided for, so far as shall be necessary to admit the convenient passage of logs, timber and rafts, without, however, endangering or impairing thereby the rights and property of the owners or occupants of said booms, and the person or persons so constructing such chute or apron shall pay to the owner of such mill all damages which may accrue or arise in consequence of such construction or the loss of time or water by means thereof.

Chutes or slopes may be made in dams.

§ 3. The owner or occupant of any dam now erected or hereafter to be erected upon said river, may by notice in writing, require any person or persons, before floating any lumber, logs or timber over such dam, to make the slope or apron above mentioned; and in case of omitting so to do after notice so given, the person or persons so floating lumber, logs or timber over such dam, shall be liable to pay all damages occasioned thereby, with costs of suit, to the person or persons entitled thereto.

Duty of owners or occupants of dams.

§ 4. If any person shall obstruct or dam up the navigation of the said river otherwise than as herein provided, he shall forfeit the sum of twenty-five dollars, to be recovered by any person who shall sue for the same, with the costs of suit, and shall also be liable for all damages sustained by any person or persons in consequence of such obstruction.

Penalty.

§ 5. This act shall take effect immediately.

CHAP. 274.

AN ACT to abolish distress for rent, and for other purposes.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Distress for rent is hereby abolished.

Abolished.

§ 2. The twelfth, thirteenth, fourteenth, fifteenth, sixteenth and seventeenth sections of the fourth title of the first chapter of the second part of the Revised Statutes are hereby repealed.

Repeal.

§ 3. Whenever the right of re-entry is reserved and given to a grantor or lessor in any grant or lease in default of a sufficiency of goods and chattels whercon to distrain for the

Re-entry, when and how to be made.

satisfaction of any rent due, such re-entry may be made at any time after default in the payment of such rent, provided fifteen days' previous notice of such intention to re-enter, in writing, be given by such grantor or lessor, or his heirs or assigns, to the grantee or lessee, his heirs, executors, administrators or assigns, notwithstanding there may be a sufficiency of goods and chattels on the lands granted or demised for the satisfaction thereof. The said notice may be served personally on such grantee or lessee, or by leaving it at his dwelling house on the premises.

CHAP. 275.

AN ACT making an appropriation for the relief of the Mount-Pleasant State Prison, and for other purposes.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Money to be
paid to
agent.

§ 1. The comptroller is hereby authorized to pay, by warrant on the treasurer of this state, out of moneys in the treasury not otherwise appropriated, to the agent of Mount-Pleasant State prison, the following sums : Ten thousand dollars to pay the debts already incurred on account of said prison ; and ten thousand dollars for the purpose of making an aqueduct and reservoir, to bring water from the Croton aqueduct to supply said prison ; and four thousand dollars for the purpose of repairing said prison ; and four thousand dollars for the purpose of building shops in, and completing the walls of said prison.

To be drawn
as wanted.

§ 2. Said sums, or so much thereof as shall be necessary for the above purposes, shall be drawn out of the treasury as aforesaid, from time to time as the same shall be wanted, and shall be expended and paid out by the agent of said prison, under the general direction of the board of inspectors of said prison.

Children
born in pri-
son to be
sent to poor-
house.

§ 3. All children now in said prison, which shall have been born in said prison of female convicts, and all children that shall hereafter be born of female convicts in said prison, may, by an order of the board of inspectors thereof, be sent to the poor house in the county of Westchester, and there supported, on such terms as shall be agreed upon between said inspectors and the superintendents of the poor of the said county of Westchester, and all expenses incurred thereby, shall be paid by the agent of said prison, out of the funds thereof.

Enquiry to
be made
about trade

§ 4. Every court when making the inquiry required by section first of the act entitled "An act in relation to convict

CHAP. 337.

AN ACT to provide for the payment of certain expenses of government.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The treasurer shall pay on the warrant of the comp- Payments
troller, out of any moneys in the treasury not otherwise ap-
propriated, the following sums of money, viz :

To each of the deputy clerks of the assembly, not ex- To deputy
ceeding three in number, the sum of four hundred and fifty clerks of
dollars in full compensation for their services and of all assembly.
charges for extra engrossing.

To Abner N. Beardsley, librarian in the clerk's room of To A. N.
the assembly, the same compensation for each day's attend- Beardsley.
ance as is allowed by law to members of assembly, and the
same mileage, to be certified in the same manner.

To Samuel S. Wood, sergeant-at-arms, a sum in addition To S. S.
to what he has already received, which will make his com- Wood.
pensation equal to the per diem and mileage allowed to
members of the assembly, to be certified in the same manner,
also four dollars and fifty cents, for money paid out by him.

To Horatio G. Pope, door-keeper, and Israel R. Neahr To H. G.
and Francis Bradt, assistants, a sum in addition to what Pope.
already received, will make their compensation equal to the
per diem and mileage allowed to members of the legislature,
to be certified in the same manner.

There shall be paid to the Rev. I. N. Wyckoff, for the be- To I. N.
nefit of the clergymen officiating as chaplains to the legisla- Wyckoff, for
ture, the sum of six dollars for each day of the present chaplains.
session, to be certified in the same manner.

To Hiram Allen the sum of two dollars per day, for ser- To H. Allen.
vices in the room of the sergeant-at-arms of the assembly to
be certified in the same manner.

To David St John, superintendent of the capitol, for his To D. St.
services in taking care of the same, and the public grounds John.
around it from the first day of January one thousand eight
hundred and forty-six, to the first day of January one thousand
eight hundred and forty-seven, one dollar per day : to the
same for sweeping the capitol, making fires and lighting
lamps, during the present session of the legislature, one-hun-
dred and ninety dollars and fifty cents.

To the same for sweeping the halls, making fires and light-
ing the lamps, during the sessions of the court for the cor-
rection of errors during the year one thousand eight hundred
and forty-five, eighty dollars ; to the same for money paid

CHAP. 277.

AN ACT to confirm the title of certain real estate in Lucy Buckner, the widow of James Buckner, late of the county of Montgomery, an alien, deceased.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Title to certain land vested in L. Buckner.

§ 1. All the right, title and interest of the people of this state, in and to certain lands situate in the town of Palatine, in the county of Montgomery, which were conveyed by Jacob I. Shaul and wife to James Buckner, late of the said town of Palatine, deceased, and containing one acre and eight-tenths of an acre, are hereby released to and vested in Lucy Buckner, the widow of said deceased, her heirs and assigns forever, subject, however, to all mortgages and incumbrances thereon; and she is hereby authorized and empowered to take, hold and convey the same, in the same manner and with like effect as if she were a natural born citizen of the United States.

§ 2. This act shall take effect immediately.

CHAP. 278.

AN ACT in relation to the Indians residing on the Cattaraugus and Allegany reservations.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Penalty for giving liquor to Indians.

§ 1. Every person who shall sell or give to any Indian residing on the Cattaraugus or Allegany reservations any spirituous liquor, or any intoxicating drink, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine, not less than twenty-five dollars and not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

CHAP. 279.

AN ACT to divide the town of Westchester, in the county of Westchester.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. From and after the passage of this act, all that part of the town of Westchester, in the county of Westchester, described agreeably to a map of that part of the said town, lying easterly of the Bronx river, made by Andrew Findlay, surveyor, shall be, and hereby is erected into a separate town, and to retain the name of " Westchester ;" and which is described as follows, to wit : Beginning at a point in Long Island Sound, where the Bronx river empties into the same; thence running northerly along the centre of the Bronx river, as the same now runs, until it comes to the boundary line between Eastchester and Westchester aforesaid; thence running northeasterly along the said last mentioned boundary line, until it comes to Eastchester bay, which separates the town of Pelham from the town of Westchester aforesaid; thence running still southeasterly, easterly, southerly and westerly, winding and turning as the shore winds and turns, extending as far into Long Island Sound as the true boundary line of said town extends, until it comes to the Bronx river aforesaid and place of beginning; and the first town meeting of said town shall be held at the house of Benjamin Fowler, in said town, on the first Monday in June next, and William H. Bowne shall act as moderator and town clerk at said meeting.

§ 2. All the remaining part of the town of Westchester, as the same is now defined, shall be and hereby is erected into a new town, to be named the Town of Westfarms; and the first town meeting of said town shall be held at the place where the last annual town meeting was held in said town, on the first Monday in June next, and Ardil B. Raymond shall preside as moderator and town clerk at said meeting.

§ 3. The justices of the peace now residing in each of said towns respectively, shall hold their offices for the terms for which they were respectively elected, and shall preside at the town meetings to be held in said towns, and possess all the powers now conferred upon justices of the peace.

§ 4. The supervisors of the town of Westchester and Westfarms, together with the newly elected board of trustees of each of said towns, as soon as may be after the first Monday in June, by notice given by either of them for that purpose, and served at least six days previous, shall meet together and

apportion the funds, public lands, and property now belonging to the old town of Westchester, equally between each of said new towns, agreeably to the assessed value of property, as will appear by reference to the last assessment roll of the old town of Westchester, and shall file a certificate containing a description of the public lands assigned to each town in the offices of the town and county clerks, or they may sell or dispose of said public lands, and divide the proceeds of such sales in such manner as to them may be deemed most advantageous to each of said towns respectively.

Trustees.

§ 5. The provisions of the act entitled "An act to incorporate the trustees of the town of Westchester," passed April 12th, 1844, shall apply to each of the towns hereby erected, except there shall only be three trustees elected in each of said new towns hereafter, in place of six as heretofore, who shall possess all the powers now delegated to the present board.

Unsettled
claims how
to be held
and enjoyed.

§ 6. All unsettled claims and privileges heretofore had by the people of the old town of Westchester, under the "Old charter," shall continue to be held and enjoyed by the inhabitants of each of the new towns of Westfarms and Westchester, respectively, as if this act had not passed.

§ 7. This act shall take effect immediately.

CHAP. 280.

AN ACT for the relief of Westfall May and others.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Title vested
in H. E. Carl
and others.

§ 1. All the estate and interest of the people of this state in and to certain lands in the town of Chatham, in the county of Columbia, being the same lands which were conveyed to Westfall May by William Claw, and subsequently conveyed by Westfall May to Henry E. Carl, Delia E. Carl, Maria M. Budd, wife of Gilbert Budd, Rozina Vosburgh, wife of Lawrence Vosburgh, and Catharine Silvernail, wife of Henry Silvernail, acquired by the escheat of the same, in consequence of the alienage of the said Westfall May, are hereby released to the aforesaid Henry E. Carl, Delia E. Carl, Maria M. Budd, Rozina Vosburgh, and Catharine Silvernail, in the same proportions as conveyed or attempted to be conveyed by the said Westfall May, as aforesaid, subject to the mortgage thereon, or so much thereof as remains unpaid, given by the said Westfall May to the said William Claw, to secure the purchase money for said land.

§ 2. Nothing in this act shall effect the title to said lands, or any part thereof, of any other citizen of the United States and not obtained by or through the said Westfall May. Saving clause.

CHAP. 281.

AN ACT for the relief of *Mary Agnes Titus, Elizabeth Titus, Jane Titus, James Henry Titus, Martha Titus, Abiel Titus, Ruth M. Baker, (the wife of John O. Baker,) Ann Eliza Kermit Whitaker, (the wife of Anthony B. A. Whitaker,) and William Philip Dean.*

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the estate, right, title and interest of the people of this state to the certain dwelling-house and lot of land in the city of Brooklyn, in the county of Kings, formerly the property of Peter Van Cleef, and distinguished as lot number four hundred and ninety, on Sands-street, as designated on a certain map, made by Benjamin Taylor, sworn surveyor of the city of New-York, and now filed on record in the office of the clerk of the county of Kings, and containing in width in front and rear, twenty-five feet, and in depth ninety-seven feet and six inches, lately in the possession of Sarah Kelly Williams, an alien, now deceased, is hereby released to *Mary Agnes Titus, Elizabeth Titus, Jane Titus, James Henry Titus, Martha Titus, Abiel Titus, Ruth M. Baker, (the wife of John O. Baker,) Ann Eliza Kermit Whitaker, (the wife of Anthony B. A. Whitaker,) and William Philip Dean,* to take, hold, and convey the same, in the same manner, and as fully as if the said Sarah Kelly Williams had been a naturalized citizen of the United States, and as if no proceedings for the recovery of the said lands and premises, had been had, or judgment obtained for the same, by the people of this state ; upon condition, however, that the said premises shall be subject to the debts of the said Sarah Kelly Williams, deceased, to the same extent that they would have been, had the said Sarah Kelly Williams, deceased, been a naturalized citizen of the United States. Title vested in Mary A. Titus and others.

§ 2. This act shall not take effect until all costs and expenses incurred by the state in recovering the said property, shall be paid by the persons to be benefitted hereby. Costs to be paid.

§ 3. The commissioners of the land office shall upon the payment of such costs and expenses, release the right, title and interest of the state, in and to the said dwelling-house and lot of land, to the said *Mary Agnes Titus, Elizabeth Ti-* Commissioners of the land office to release property.

tus, Jane Titus, James Henry Titus, Martha Titus, Abiel Titus, Ruth M. Baker, (the wife of John O. Baker,) Ann Eliza Kermit Whitaker, (the wife of Anthony B. A. Whitaker,) and William Philip Dean, upon the terms and conditions declared in the first section of this act.

§ 4. This act shall take effect immediately.

CHAP. 282.

AN ACT in relation to the Police Justice in the village of Oswego.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Salary, how paid.

§ 1. The salary of the police justice of the village of Oswego, shall hereafter be paid by the towns of Oswego and Scriba, in the county of Oswego, in the following proportions, to wit : Twelve parts of said salary out of twenty-three, shall be paid by the town of Oswego, and the remaining eleven parts thereof shall be paid by the town of Scriba aforesaid ; and the said salary shall be raised and collected by a tax upon each of the said towns in the proportions hereinbefore specified, in the same manner as the ordinary expenses of the said towns are raised and collected.

Justice to keep account of services rendered.

§ 2. The said police justice shall keep an accurate account of all services rendered by him, under section twenty-six of the act entitled "An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10th, 1845, and shall charge the same fees therefor as are allowed by law to justices of the peace in criminal proceedings, and shall make annual returns of such charges, and render accounts thereof in the manner required of justices of the peace, to entitle them to the payment of such fees ; and such fees and accounts shall be collected from the several towns in Oswego county, in which the offences by reason of which they shall be charged, shall have been committed, in the manner provided for in the said twenty-sixth section of the said act of eighteen hundred and forty-five, for the fees of justices of the peace ; and such fees, when collected, shall be paid over to the proper officers of the said towns of Oswego and Scriba, in the proportions in which the said towns are by this act required to pay the salary of the said police justice.

To make annual return of moneys received.

§ 3. The said police justice shall make an annual return to the board of supervisors of Oswego county, of all moneys received or charged by him during the year next preceding

the date of such return and subsequent to the date of the like return of the preceding year, and shall state the person or persons from whom such moneys were received, and against whom such charges were made by reason of the commencement or prosecution of proceedings before him without probable cause, and with malicious intent to injure and harass any party complained of, or proceeded against by virtue of the sixteenth section of the act of eighteen hundred and forty-five, referred to in the second section of this act; and such return shall be made and verified by the oath of such police justice within ten days prior to the third day of the session of the said board of supervisors, at each of its annual meetings; and such police justice shall not be paid or authorized to receive any portion of his salary which shall remain unpaid at the time of any meeting of the said board of supervisors to which he is required to make such return, until he shall have complied with the provisions of this and of the second sections of this act.

§ 4. The legislature may at any time alter or repeal this act. Right to repeal.

CHAP. 283.

AN ACT to provide for the building of a town hall in the town of Mexico.

Passed May 13, 1846.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The board of supervisors of the county of Oswego, at their next annual meeting, shall impose a tax upon the taxable inhabitants and property of the town of Mexico, sufficient to raise the sum of five hundred dollars, for the purpose of procuring a town hall in the village of Mexico, in said town, for the use and benefit of the people of said town, and for such other purposes as the trustees to be appointed as hereinafter mentioned may allow and direct; which said tax shall be imposed and collected in the same manner that the county tax is imposed and collected, and shall be paid by the collector to the trustees appointed as hereinafter directed. Town hall to be erected.

§ 2. The supervisor and justices of the peace of said town, or a majority of them, may at any time after this act shall take effect, appoint by writing, to be filed with the town clerk of said town, three citizens of said town trustees for said town hall, whose duty it shall be to receive from the collector of said town the said sum of five hundred dollars, and expend the same in procuring for the use of said town a Three trustees to be appointed.

suitable room to be denominated a "town hall," pursuant to the recommendation of a report and resolution approved and adopted by the people of said town at their annual town meeting, held on the third day of February eighteen hundred and forty-six. And such trustees are authorized to receive in their name as such trustees and their successors, for the use and benefit of said town, such title to the same as they may think proper, and at all times hereafter repair and keep in repair, insure and keep insured the said hall; the expense whereof shall be audited and collected in the same manner that other town expenses are now audited and collected in said town.

Tenure of
their office.

§ 3. The said trustees shall hold their offices for one year and until others are elected as hereinafter directed; and said trustees or a majority of them, and their successors in office for the time being, shall have the care and control of the said town hall, and may sue in all matters relating to said town hall by the name and title of "town hall trustees."

To be elected
annually.

§ 4. The people of said town of Mexico, qualified to vote at town meetings, shall, at their next annual town meeting, and at every annual town meeting thereafter, elect three citizens of said town trustees of said town hall.

Town hall
may be sold.

§ 5. The people of said town, qualified to vote at town meetings, may at any annual town meeting hereafter to be held, authorize and direct said trustees to sell and convey said town hall, and shall in such case, cause the proceeds to be expended in the purchase of a site, and the erection of a building thereon, for the uses and purposes of the people of said town as a town hall.

§ 6. This act shall take effect immediately.

CHAP. 284.

AN ACT to confirm the official acts of Henry Ragan, while acting as a justice of the peace.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Official acts
confirmed.

§ 1. All the proceedings which have been had by and before Henry Ragan, acting as a justice of the peace of the town of Turin, in the county of Lewis, and all acts done by him as such, since the first day of January last, shall be held of the same force and validity as if the said Henry Ragan had duly taken the oath of office, in the manner and within the time prescribed by law and the Constitution of this State.

§ 2. All liabilities and forfeitures incurred by the said Henry Ragan, for having executed any of the duties of the said office of justice of the peace, without having taken the oath of office in the manner, and within the time prescribed by law, are remitted. Liabilities and forfeitures remitted.

§ 3. This act shall not affect the right of any party in any suit or legal proceedings, which have been had or commenced in consequence of the invalidity of any proceedings before the said justice previous to its passage. Saving clause.

§ 4. Nothing in this act contained shall be construed to authorize the said Henry Ragan, hereafter to perform or discharge any of the duties of the office of a justice of the peace.

§ 5. This act shall take effect immediately.

CHAP. 285.

AN ACT *in relation to the assets of the Farmers' Bank of Orleans.*

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The court of chancery is hereby authorized from time to time, to make such orders in relation to the sale of the assets, and the time for closing the concerns of the Farmers' Bank of Orleans, by the receiver thereof, as may be deemed advantageous to the interests of the creditors and stockholders of said bank; but no order shall be granted which shall have the effect of postponing the payment of any portion of the debts owing to the creditors of said bank. Sale of assets

CHAP. 286.

AN ACT *granting to Horace D. Swan the privilege of establishing and maintaining a ferry across the Allegany river.*

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for Horace D. Swan, of the county of Cattaraugus, and his assigns, to set up, keep and maintain a ferry across the Allegany river, at the most convenient point between the mouth of the Cold-Spring creek and Ferry may be kept.

Robinson's island, in the town of Cold-Spring, in said county, for and during the term of ten years.

Dock or
landing place
to be made.

§ 2. The said Horace D. Swan and assigns, shall, if they set up and establish a ferry by virtue of this act, make a convenient dock or landing place on each side of the said river, and shall, during the time aforesaid, keep, support and maintain a ferry boat, capable of conveying four horses, and ready at all reasonable times and seasons to transport and ferry across the said river, persons, goods and chattels.

Rates of fer-
riage, how
determined.

§ 3. The court of common pleas of the county of Cattaraugus, in their sessions, may and shall annually order, direct and determine the several rates of toll of said ferry ; and the said court shall have the full power to lease to the said Horace D. Swan and his assigns, by and with the consent of the principal chiefs residing on the Allegany river Indian reservation so much land as shall be necessary for his use in keeping said ferry : But nothing herein contained shall be construed to authorize the said Horace D. Swan to cut or remove any pine trees or pine timber from any land which may be leased to him and his assigns by virtue of this act.

Penalty for
over charg-
ing.

§ 4. If the said Horace D. Swan or his assigns, or either of them, or any ferry-man or person employed by him or either of them, to keep said ferry, shall exact or receive any greater or higher rates of toll for transporting persons, goods or chattels than shall be by the court of common pleas aforesaid limited and established, the person or persons so offending shall forfeit and pay for every such offence the sum of three dollars, to be recovered in any court having cognizance thereof within the State, by any person who shall sue for the same.

Restriction.

§ 5. If any person or persons shall, after the passage of this act, set up, keep or maintain a ferry, or shall transport any persons, goods or chattels, for hire or pay, across the said river, within two miles of the mouth of Cold-Spring creek, other than the said Horace D. Swan and his assigns, such person or persons shall, for every such offence, forfeit and pay the sum of five dollars, to be recovered in any court within this state having cognizance thereof ; but nothing herein contained shall be construed to exclude any person or persons living or inhabiting along said river, within the limits aforesaid, from the right of carrying and transporting themselves, and their goods and chattels, respectively, in their own boats, at pleasure.

Saving
clause.

§ 6. If it shall appear to the court of common pleas aforesaid, upon sufficient evidence that the said Horace D. Swan, or his assigns, shall wilfully neglect to comply with the directions of this act, in keeping said ferry, it shall and may be lawful for the said court to adjudge that all the privileges

granted to them under this act shall cease, and be of no effect.

§ 7. The Legislature may at any time modify or repeal this act.

§ 8. This act shall take effect immediately.

CHAP. 287.

AN ACT to amend an act entitled "*An act to enable the dispensaries of the city of New-York to extend their benefits,*" passed April 21st, 1841.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The comptroller of the state is hereby authorized to pay out of the surplus hospital or marine funds, to each of the dispensaries named in the act entitled "*An act to enable the dispensaries of the city of New-York to extend their benefits,*" passed April 21, 1841, for the one year ending December thirty-first, eighteen hundred and forty-five, the annual sum which by the said act is provided, shall only be paid out of the surplus therein limited.

Money to be paid to dispensaries.

CHAP. 288.

AN ACT to amend an act entitled "*An act concerning the proof of wills, executors and administrators, guardians and wards, and surrogates' courts,*" passed May 16, 1837.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Whenever an absent or non-resident executor or administrator shall have been duly cited to appear and account before the surrogate, in pursuance of the fifty-second section of title third of chapter six and part second of the Revised Statutes, and the citation shall have been duly served in the manner prescribed by law, and such executor or administrator shall, without showing reasonable cause, neglect or refuse to appear in pursuance of said citation, the surrogate issuing such citation may in his discretion thereupon make an order revoking the letters testamentary or letters of administration before granted to such executor or administrator, reciting therein the cause of such revocation ; and shall grant letters testamentary or of administration of the goods, chat-

Letters testamentary or of administration, when to be revoked.

tels and effects of the deceased unadministered, to the person entitled thereto, (other than such executor, or administrator,) in the same manner as original letters of administration or letters of administration, or letters testamentary, with the like effect as is provided in the twentieth and twenty-first sections of title third, chapter six, part second of the Revised Statutes, where an executor or administrator has neglected or refused to return an inventory.

CHAP. 289.

AN ACT for the relief of Patrick Cooney.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages
to be ap-
praised.

§ 1. The canal appraisers are hereby authorized and required, subject to an appeal to the canal board, as in other cases provided by statute, to ascertain and appraise the damages, if any, sustained by Patrick Cooney in consequence of the construction of a basin or side cut from the Oswego canal, at or near the second lock in the village of Salina, by Alden S. Crane, through the permission and under the direction of David Hudson, late acting canal commissioner of the state.

Amount to
be paid.

§ 2. The commissioners of the canal fund shall pay to Patrick Cooney, or his legal representatives, such damages as shall be ascertained by the canal appraisers, or allowed by the canal board in case of an appeal, out of any moneys appropriated or to be appropriated for the payment of canal damages.

CHAP. 290.

AN ACT to authorize the mayor, aldermen and commonalty of the city of New-York, to raise money by loan, and to create a public fund or stock, to be called "*Building loan stock No. 2.*"

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

A loan of
\$250,000
may be
made.

§ 1. It shall be lawful for the mayor, aldermen and commonalty of the city of New-York, to raise by loan from time to time, and in such amounts as they may think fit, a sum not exceeding two hundred and fifty thousand dollars, by the creation of a public fund or stock, to be called "*building*

loan stock No. 2," which shall bear an interest not exceeding six per centum per annum, and shall be redeemable as follows : Fifty thousand dollars in the year one thousand eight hundred and fifty-two, and fifty thousand dollars thereof in every year thereafter, until the whole sum is redeemed.

§ 2. It shall be lawful for the said mayor, aldermen and commonalty of the city of New-York, to determine the nominal amount or value of each share of the said stock, and of what number of shares the same shall consist; and they are hereby authorized to sell and dispose of the same, at or above the par value thereof, either at public auction or private sale. Value of each share.

§ 3. The money to be raised by virtue of this act, shall be applied to and expended for the following purposes, viz : erecting nursery and alms-house buildings, and also an iron fence around Stuyvesant square. Money, how to be applied.

§ 4. In order to redeem the said loan hereby authorized, with the interest thereon, the mayor, recorder and aldermen of the city of New-York, as the supervisors thereof (of which the mayor or recorder shall be one,) are hereby authorized and empowered to order and cause to be raised by tax, on the estate, real and personal, of the freeholders and inhabitants of the city and county of New-York, and situated within the said city, and to be collected in addition to the ordinary taxes yearly, and every year until the whole sum shall be redeemed, such sum as is required by the first section of this act with the interest thereon. Loan, how to be redeemed

CHAP. 291.

AN ACT in relation to the keeping of gunpowder, saltpetre, and certain other substances, in the city of New-York.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall not be lawful for any person or persons, except as hereinafter provided, to have or keep any quantity of gunpowder, in any one house, store, building or other place in the city of New-York, to the southward of a line running through the centre of Forty-second-street, from the North to the East river. Restrictions.

§ 2. It shall be lawful for the mayor of the city of New-York, under his official seal, to grant licenses to persons desirous to sell powder at retail in the said city of New-York. The persons so licensed may have on their premises, if actually kept there for sale, a quantity of gunpowder not exceeding in all, twelve pounds at any one time, to be put up in Mayor may grant licenses to sell powder.

tight copper or tin canisters, containing or capable of containing only one pound each. The persons so licensed, shall not be protected against any of the penalties or consequences hereinafter provided for violations of the first section of this act, except while they have on some conspicuous part of the front of each of the houses or buildings in which they may be licensed to sell powder under this section, a sign, on which shall be distinctly printed in characters legible to persons passing such houses or buildings, the words "licensed to sell gunpowder."

Quantity which may be kept in store by dealers.

§ 3. It shall be lawful for persons actually dealing in gunpowder in the city of New-York, to have five quarter casks of gunpowder but no more, at any one time, on the walk in front of their stores during the day time, for the purpose of packing the same, and sending the same either on board of a vessel, or to some place without the district specified in the first section of this act, but for no longer time than shall be actually necessary for the purposes aforesaid. The powder kept or had under this section, may, if covered completely and securely with a leather or canvass bag or case, be carried through the street during the day time to a vessel as aforesaid, or other place without the district last mentioned. If the same be put on board of any vessel within such district, such vessel shall, before sundown, haul into the stream to a distance not less than three hundred yards from any dock, wharf, pier or bulkhead, and shall not, at any time until eight o'clock of the morning, while such powder is on board, lie within three hundred yards of any dock, wharf, pier or bulkhead of said city. All powder had, kept, prepared, or carried under the provisions of this section, shall have distinctly and plainly printed upon the articles containing it, the word "gunpowder."

Duty of commanders of vessels having powder on board.

§ 4. The commander, owner or owners of every ship or other vessel arriving in the harbor of New-York, and having more than twenty-eight pounds of gunpowder on board, shall, within forty-eight hours after the arrival, and before such ship or vessel shall approach within three hundred yards of any wharf, pier or slip, to the southward of a line drawn through the centre of Forty-second-street as aforesaid, cause the said gunpowder to be landed by means of a boat or boats, or other small craft, at any place without the said limits which may be most contiguous to any magazine for storing gunpowder, and shall cause the said gunpowder to be stored in such magazine.

May proceed to sea or tranship powder.

§ 5. It shall be lawful either to proceed with any such ship or vessel to sea, within forty-eight hours after her arrival, or to tranship such gunpowder from one ship or vessel to another, for the purpose of immediate exportation, without landing

such gunpowder, as in the last section is directed; but in neither case shall it be lawful to keep such gunpowder for a longer time than forty-eight hours in the harbor of New-York, or approach with the same within three hundred yards of any wharf, pier or slip in the said city, to the southward of the line specified in the last section.

§ 6. In every case of a violation of any provision of this act, where the penalty prescribed thereby for such violation is the forfeiture of any gunpowder to the said fire department, it shall be lawful for any fire-warden of the said city to seize such gunpowder in the day-time, and to cause the same to be conveyed to any magazine used for the purpose of storing gunpowder. Forfeiture in case of violation.

§ 7. It shall be the duty of every person who shall have made any such seizure, forthwith to inform the mayor or any alderman of the said city thereof; and the said mayor or alderman shall thereupon inquire into the facts and circumstances of such alleged violation and seizure, for which purpose he may summon any person or persons to testify before him, and he shall have power, in his discretion, to order any gunpowder so seized to be restored. Mayor to be notified of seizure.

§ 8. Whenever any inhabitant of the said city shall make oath before the mayor or any alderman, or any special justice thereof, of any fact or circumstance which in the opinion of the said mayor, alderman or special justice, shall afford a reasonable cause of suspicion that any gunpowder has been brought or is kept within the said city, or in the harbor thereof, contrary to any provision contained in this act, it shall be lawful for the said mayor, alderman or special justice, to issue his warrant or warrants, under his hand and seal, to any sheriff, marshal, constable or other fit person or persons, commanding him or them to search for such gunpowder in the day-time, wheresoever the same may be in violation of this act, and to seize and take possession of the same if found; but no person having or acting under any such search warrant, shall take advantage thereof to serve any civil process whatever. Search may be made for gunpowder.

§ 9. It shall be lawful for any person or persons, who, by virtue of any such warrant, shall have seized any gunpowder, to cause the same, within twelve hours in the day-time after such seizure, to be conveyed to any magazine used for storing gunpowder; and unless the said mayor or any alderman of the said city, should in the manner directed by the seventh section of this act, order the same to be restored, such gunpowder shall be detained in such magazine, until it shall be determined by due course of law, whether the same may have become forfeited by virtue of this act. Powder seized may be conveyed to magazine.

§ 10. All actions or suits for the recovery of any gunpowder which may have been seized and stored in any magazine Actions for damages, against

whom to be brought.

by virtue of this act, or for the value thereof, or for damages sustained by the seizure or detention thereof, shall be brought against the fire department of the city of New-York, and shall be commenced within three calendar months next after such seizure shall have been actually made; and in case no such action or suit shall have been commenced within such period, such gunpowder shall be deemed absolutely forfeited to the said fire department, and may be immediately delivered to the proper officers thereof for its use. No penal damages shall be recovered in any such action or suit; and such gunpowder may, at any time during the pendency of any such action or suit, by consent of the parties thereto, be removed from any magazine where the same may have been stored; or may be sold, and the money arising from such sale may be paid into the court where such suit or action may be pending, to abide the event thereof.

Ships of war.

§ 11. Nothing contained in this act, shall be construed to apply to any ship or vessel of war in the service of the United States, or of any foreign government, while lying distant three hundred yards or upwards from the wharves, piers or slips of the said city.

Provision in case of seizure of powder during fire.

§ 12. If any gunpowder exceeding the quantity mentioned in the second section of this act, shall be found in the possession or custody of any person, by any fireman of the said city, during any fire or alarm of fire therein, it shall be lawful for such firemen to seize the same without any warrant, and to report such seizure without delay to the mayor or any alderman of the said city; and it shall be determined by the said mayor or alderman of the said city, in the manner directed by the seventh section of this act, whether such gunpowder shall be restored, or the same shall be conveyed to a magazine for storing gunpowder, and there detained, until it be decided by due course of law, whether such gunpowder be forfeited by virtue of this act.

Sulphur, hemp, flax, pitch, &c., how to be stored.

§ 13. No quantity of sulphur more than ten hundred weight, or of hemp or flax than twenty hundred weight, or of pitch, tar, turpentine, rosin, spirits of turpentine, varnish, linseed oil, oil of vitriol, aqua fortis, ether, or shingles, than shall be allowed by the common council of the city of New-York, shall be put, kept or stored in any one place in the said city to the southward of a line drawn through the centre of Fourteenth-street, unless with the permission of the said common council.

Penalty for violation.

§ 14. Every person who shall violate either of the provisions of the last section, shall, for every such offence, forfeit and pay the sum of twenty-five dollars; and in case any such person or persons shall neglect or refuse to remove any of the articles prohibited by the said section, within such time as may be allowed for that purpose by the mayor or recorder,

or any alderman of the said city, he, she or they shall, for every such neglect or refusal, forfeit and pay an additional sum of twenty-five dollars.

§ 15. Nothing hereinbefore contained, shall be construed to prohibit any ship chandler from keeping at any time, in any enclosure in the said city, any quantity of pitch, tar, rosin or turpentine, not exceeding twenty barrels in the whole. Privilege of ship chandlery.

§ 16. It shall not be lawful for any person or persons, to have or keep any quantity of saltpetre exceeding five hundred pounds, offered for sale by any dealer, having the same in any house, store, building or other place in the city of New-York to the southward of the line mentioned in the first section of this act, and all provisions of this act in relation to the having or keeping of gunpowder, shall apply to the having or keeping of saltpetre within the limits aforesaid, except as to the provisions of the seventeenth section of this act. Restriction as to saltpetre.

§ 17. Notwithstanding the preceding section, saltpetre may be had or kept by any dealer, in any quantity, within any fire-proof building within the city of New-York, provided it be the only merchandize stored or kept within such building. May be kept in fire proof building.

§ 18. Any violation of the provisions of this act, except where otherwise expressly provided, shall subject the offender to a fine of five hundred dollars for each offence, to be recovered by and for the use of the fire department of the city of New-York, and such offender on conviction before the general sessions of the peace for the city and county of New-York of any violations of the provisions aforesaid, or of either of them, may be imprisoned in the county jail for a term not exceeding one year. All gunpowder or saltpetre, found within the limits specified in the first section of this act, shall be forfeited to the use of said fire department. Fines.

§ 19. If any person or persons shall hereafter be injured at any fire occurring within the limits mentioned in the last section, by means of any explosion resulting from the violation by any other person or persons of any of the provisions of this act relating to saltpetre or gunpowder, the person or persons guilty of such violations, shall, on conviction before the general sessions aforesaid, be punished by imprisonment in the state prison for a term not exceeding two years. If such violation occasions the death of any person or persons, the offender shall, on conviction, be deemed guilty of manslaughter in the third degree, and punished as now provided by law in relation to the crime last named. Penalty in case of persons being injured by fire.

§ 20. The penalties and provisions of this act shall not extend to any vessel receiving gunpowder on freight, provided such vessel do not remain at any wharf of the said city, or within three hundred yards thereof after sunset, or on any other day whilst having gunpowder on board. Provision as to vessels receiving freight.

Penalties,
how sued
for.

§ 21. All pecuniary penalties imposed by this act, may be sued for and recovered with costs of suit, in any court having cognizance thereof, by the proper officers of the fire department of the said city, for the use of the said fire department.

Time limited

§ 22. All actions for any forfeiture or penalty incurred under this act, shall be commenced within one year next after incurring such forfeiture or penalty.

Repeal.

§ 23. All laws or parts of laws heretofore passed, inconsistent with the provisions of this act, are hereby declared to be repealed; but such repeal shall not affect any suit or prosecution already commenced, or any penalty, forfeiture or offence already incurred or committed under any such law or part of a law.

CHAP. 292.

AN ACT to regulate the price for transporting freight on the Tonawanda Railroad.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Accommo-
dation for
passengers.

§ 1. The Tonawanda Railroad Company shall supply sufficient accommodation for conveying, and shall convey over their road or any portion thereof, passengers and their ordinary baggage, goods, wares and merchandize, salt, grain, flour, wool and all other produce, on the payment of the tolls provided for by this act.

Rate of
freight.

§ 2. The said railroad company may receive for conveying goods, wares, and merchandize, from the city of Rochester to Wardville, in the town of Bergen, Genesee county, or to any intermediate place, at the rate of eight cents for every one hundred pounds, and ten cents for every one hundred pounds from Rochester to Batavia, and from Rochester to any place between Wardville and Batavia, and ten cents for every one hundred pounds from Rochester to any place west of Batavia and they shall receive no other or further charge whatsoever for such services, except that they may receive for transporting household furniture from Rochester to Wardville, two dollars per car-load of three tons, and from Rochester to any place west of Wardville, three dollars for such car-load, and at corresponding rates on furniture as aforesaid, going to the city of Rochester.

Wheat and
other grain.

§ 3. The said railroad company may receive for transporting wheat and all other grain, from Attica, Alexander and Batavia to the city of Rochester, three cents per bushel; and from all places east of Batavia, two and a half cents per

bushel ; and the said company may receive for transporting flour from Attica, Alexander and Batavia to the city of Rochester, twelve cents per barrel ; and from any place east of Batavia, ten cents ; and for pork, pot and pearl ashes, lard, butter, grass and clover seed, from Attica, Alexander and Batavia to the city of Rochester, or from Rochester to those places, eight cents per one hundred pounds ; and from any place east of Batavia, six cents ; and for wool, twelve cents for each hundred pounds from Attica, Alexander and Batavia to the city of Rochester, and ten cents for every one hundred pounds east of Batavia ; and for salt, ten cents per barrel from the city of Rochester to Wardville, and sixteen cents for any place west of Wardville ; and the said company shall not receive any further compensation for receiving and forwarding the above named articles, than the prices named in this section.

§ 4. That part of section fifteen of the act entitled "An act Repeal. to incorporate the Tonawanda Railroad Company," passed April 24, 1832, as is inconsistent with the provisions of this act, is hereby repealed.

§ 5. This act shall take effect immediately.

CHAP. 293.

AN ACT for the relief of Robert Renwick, Jun., Zebina Willson, Jun., and the heirs of Zebina Willson, late deceased.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal board is hereby authorized and required to investigate the claim of Robert Renwick, Jun., Zebina Willson, Jun., and the heirs of Zebina Willson, late deceased, to the award made by the canal board for a breach of contract, on the part of the state for construction of section eighty of the Genesee Valley canal. And if, after such investigation, the canal board shall decide that the said Robert Renwick, Jun., Zebina Willson, Jun., and the heirs of Zebina Willson, late deceased, are equitably entitled to said award, then the said canal board is authorized to certify the same to the acting canal commissioner, who shall thereupon pay the said award in such manner as directed by the said canal board, to said Robert Renwick, Jun., Zebina Willson, Jun., and the heirs of Zebina Willson, late deceased. Claim to be investigated.

§ 2. This act shall take effect immediately.

CHAP. 294.

AN ACT for the relief of Stephen V. R. Ableman.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Claim to be heard and determined.

§ 1. The canal commissioners are hereby authorized and directed to hear and determine the claim of Stephen V. R. Ableman, for building a weigh-house over the weigh-lock in the city of Albany, and allow to him such sum as they shall deem just, over and above what has already been received by him, upon satisfactory proof being made to them that there was a mistake made by said Ableman in the contract for said work entered into by him on the twentieth day of May, one thousand eight hundred and forty-five ; and that the excess over and above the prices named in such contract for said work has not in any manner been settled for or discharged by him.

Amount to be paid.

§ 2. If any sum shall be awarded by the canal commissioners to the said Ableman, the same shall be paid by the commissioners of the canal fund out of any moneys in the treasury for the payment of canal damages, not otherwise appropriated.

§ 3. This act shall take effect immediately.

CHAP. 295.

AN ACT to confirm the official acts of James G. Lynde, a justice of the peace.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Official acts confirmed.

§ 1. All proceedings which have been had by and before James G. Lynde, a justice of the peace of the town of Champion, in the county of Jefferson, since the first day of January, one thousand eight hundred and forty-six, shall be held of the same force and validity as if said James G. Lynde had taken the oath of office within the time and in the manner prescribed by law and the constitution of this state.

Liabilities and forfeitures remitted.

§ 2. All liabilities and forfeitures incurred by the said James G. Lynde, for having executed any of the duties and functions of said office without having taken the said oath, are hereby remitted.

§ 3. This act shall not affect the right of any party in any suits, or legal proceedings, which may have been had or commenced in consequence of the invalidity of any proceedings had by or before the said Lynde, as such justice of the peace aforesaid. Saving clause.

§ 4. This act shall take effect immediately.

CHAP. 296.

AN ACT to confirm the official acts of Joseph Betts, a justice of the peace.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the proceedings which have been had by and before Joseph Betts as a justice of the peace of the town of Brunswick, in the county of Rensselaer, and all official acts done by him since the first day of January, one thousand eight hundred and forty-six, shall be held to be of the same force and validity as if the said Joseph Betts had duly taken the oath of office in the manner and within the time prescribed by law. Official acts confirmed.

§ 2. All liabilities and forfeitures incurred by the said Joseph Betts for having executed any of the duties of the said office of justice of the peace without having taken the oath of office in the manner and within the time prescribed by law, are hereby remitted. Liabilities and forfeitures remitted.

§ 3. This act shall not affect the right of any party to any suit or legal proceedings which may have been had or commenced, in consequence of the invalidity of any proceedings before the said justice previous to its passage. Saving clause.

§ 4. This act shall take effect immediately.

CHAP. 297.

AN ACT to confirm the official acts of Hiram E. Conger, as justice of the peace.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All the official acts of Hiram E. Conger, by him performed as justice of the peace of the town of Montgomery in the county of Orange, since the first day of January one thousand eight hundred and forty-six, shall be held to be of Official acts confirmed.

	Page.
Greenwood Cemetery, ...	469
Guardian Insurance Company, ...	292
Hebrew Assistance Society, ...	93
Hebrew Mutual Benefit Society, ...	174
Henrietta Plank Road Company, ...	325
Herman's Brothers Benevolent Society, ...	96
Historical Society, ...	9
Howard Insurance Company, ...	286
Hudson and Berkshire Railroad Company, ...	458
Hudson Orphan and Relief Association, ...	94
Hudson River Railroad Company, ...	272
Jefferson Insurance Company, ...	293
Junction Canal Company, ...	222
Knickerbocker Fire Insurance Company, ...	289
Lackawack and Neversink Turnpike Company, ...	473
Literary Institutions, Trust Estate, ...	76
Lockport Village, ...	412
Madison University, ...	32
Magnetic Telegraph Association, ...	474
Manhattan Fire Insurance Company, ...	294
Merchants' Fire Insurance Company, ...	288
Methodist Episcopal Church at Kingston, ...	340
Missionary Society, ...	470
Mutual Insurance Company, ...	289
National Fire Insurance Company, ...	341
New-Windsor and Cornwall Turnpike Company, ...	462
New-York City Charter, ...	184
New-York and Connecticut Railroad Company, ...	264
New-York Equitable Insurance Company, ...	455
New-York and Erie Railroad Company, ...	459, 243
New-York Fire Insurance Company, ...	286
New-York and Harlem Railroad Company, ...	248
New-York Hebrew Assistance Society, ...	93
New-York Historical Society, ...	9
New-York and New-Haven Railroad Company, ...	231
Niagara Falls Ferry Association, ...	102
Niagara Falls International Bridge Company, ...	116
North-American Fire Insurance Company, ...	255
Northern Slack-water and Railway Company, ...	442
Northern Turnpike Road First Company, ...	97
Ocean Steam Navigation Company, ...	156
Ogdensburgh and Heuvelton Plank Road Company, ...	188
Painted Post Bridge Company, ...	96
Polish Slavonian Literary Association, ...	33
Prison Association of New-York, ...	175
Railroad Charters, ...	168
Rochester City, ...	236
Rochester University, ...	160

	Page.
St. Andrews Society of Schenectady, ...	48
St. David's Benevolent Society, ...	172
St. John's College, Fordham, ...	64
Safety Fund Banks, ...	100
Sag-Harbor Village, ...	172, 37
Salina and Central Square Plank Road Association, ...	178
Saratoga Springs Village, ...	257
Schenectady and Catskill Railroad Company, ...	451
Schenectady and Susquehannah Railroad Company, ...	435
Seneca Road Company, ...	457
Shamrock Benevolent Society of Albany, ...	91
Submarine Telegraph Company, ...	135
Susquehannah Bridge Company, ...	170
Syracuse Society of Brotherly Love, ...	410
Tonawanda Railroad Company, ...	388
Troy Turnpike and Railroad Company, ...	461
Union Lyceum of Lyons, ...	104
Unitarian Association, ...	248
United States Fire Insurance Company, ...	338
Young Men's Association of Fulton, ...	471
Young Men's Lyceum of Prattsburgh, ...	450
Warren Free Institute of the city of Troy, ...	28
Westfield Village, ...	264
Williamsburgh Village, ...	392

Cortland County,

Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Lot Number Eight in Virgil annexed to Cortlandville, ...	78
See Senate Districts, ...	468

Cortlandville,

Lot No. 8 in Virgil annexed to the town of, ...	78
---	----

Counsellor,

See Law-partners of District Attorneys, ...	132
---	-----

County Clerks,

To transmit to Secretary of State a statement of votes for and against Licenses, ...	13
Clerk of New-York to record bonds of auctioneers, ...	65
See Erie County Work House, ...	78
Clerk of New-York may copy certain dockets and records, ...	134
See House of Refuge, Western New-York, ...	150
Fire Proof office to be erected in Rockland county, ...	165
See act authorizing Wills of real estate, &c., to be recorded, ...	204
See act to equalize taxation, ...	466

County Treasurers,

Fees of, in Kings county, ...	27
Delaware county, ...	69

been previously in the hands of a collector and a return made thereon, and notwithstanding that the lands charged therewith may have been advertised and offered for sale for the payment of such assessment or tax ; and the said trustees shall be authorized to charge interest upon such assessments or taxes from the date when such assessments or taxes ought to have been paid after being so modified and collected ; and in such case the warrant to the collector shall specify the time for which interest is to be paid, and any lands upon which such assessments or taxes shall be duly returned as unpaid, may be advertised and sold by the said trustees in pursuance of the act hereby amended.

Taxes in arrear to be annexed to tax lists.

§ 7. It shall be the duty of the supervisors of the county of Kings, to annex to the tax lists of the ensuing year for the several districts of the town of Williamsburgh an account of all taxes in arrear and unpaid now in the hands of the treasurer of the said county upon lands in the said several districts, for the year one thousand eight hundred and forty, one thousand eight hundred and forty-one, one thousand eight hundred and forty-two ; which lists shall be certified as correct by the said county treasurer, and in their warrants to the collectors of the several districts of the said town, the said supervisors shall direct the collection of such arrears of taxes, and the said collectors shall have the same power to collect the same as they have to collect the ordinary taxes of said town. All lands upon which such taxes shall remain uncollected may, when duly returned to the county treasurer, and by him transmitted to the trustees of said village, be sold by the said trustees in the same manner as lands returned for the nonpayment of other county taxes.

General referee.

§ 8. The general referee appointed under and in pursuance of the act entitled "An act to authorize the trustees of the village of Williamsburgh to raise money by loan or tax to pay certain debts, and to provide for the speedy liquidation and settlement of certain disputed matters and claims in said village," passed May 13, 1845, shall continue in office for one year after the time limited by the seventeenth section of the said act, and shall have power to close and determine any business brought before him within the time herein specified.

§ 9. This act shall take effect immediately.

CHAP. 299.

AN ACT for the relief of Merritt Clark, Richard Clark, Ambrose Clark and George D. Wheeler, contractors on section number five of the Genesee Valley canal.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal board are hereby authorized and directed to hear and determine the claim of Merritt Clark, Richard Clark, Ambrose Clark and George D. Wheeler, contractors on section number five of the Genesee Valley canal, and to allow them such sum as they shall appear to be justly entitled to for excavation and labor on the said section, by reason of an erroneous classification of the engineer, different from the terms of their contract, which has not been allowed to them and paid; the same as if their contract had not been closed, and the testimony heretofore taken in this case before the canal board, may be used on the hearing.

Claim to be heard and determined.

§ 2. The commissioners of the canal fund are directed to pay such sum as shall be determined by the canal board to be due to the said Merritt Clark, Richard Clark, Ambrose Clark and George D. Wheeler, on their contract, out of any moneys in the canal fund.

Amount to be paid.

§ 3. This act shall take effect immediately.

CHAP. 300.

AN ACT concerning quarantine, and regulations in the nature of quarantine, at the port of New-York.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The anchorage ground for vessels at quarantine, shall be near the Marine Hospital, on Staten Island, and be designated by buoys to be anchored under the direction of the health officer; and every vessel subject to quarantine shall, immediately on her arrival, anchor within them, and there remain with all persons arriving in her, subject to the examinations and regulations imposed by law.

Quarantine ground.

§ 2. Vessels arriving at the port of New-York, shall be subject to quarantine as follows ;

What vessels subject to quarantine.

1. All vessels direct from any place where yellow, bilious-malignant, or other pestilential or infectious fever existed at

	Page.
<i>Dispensaries,</i>	
Act relative to the, in New-York,.....	381
<i>Dissolution,</i>	
Of Common School Districts,.....	70
Of Buffalo Literary and Scientific Academy,.....	91
<i>Distress for Rent,</i>	
Act to abolish, and for other purposes,....	369
<i>District Attorney,</i>	
Salary of, in Kings county,.....	27
Of Schoharie county,.....	102
Of Orange county,.....	123
Act to prevent law partners of, to act as counsel,.....	132
Of Allegany county,.....	140
<i>Districts,</i>	
Act for the arrangement of the Senate,.....	468
<i>District Schools,</i>	
See act in relation to the dissolution of,.....	70
(See schools,)	
<i>Dobbin, James, deceased,</i>	
Act for the relief of the estate of,.....	57
<i>Docks,</i>	
May be erected by Samuel Bloss,.....	89
<i>Docket of Judgments,</i>	
In clerks' office New-York, may be copied,.....	134
<i>Documentary Evidence,</i>	
Act in addition to the act relating to,.....	303
<i>Documents of Senate and Assembly,</i>	
Contract to be made for binding,.....	486
<i>Donaldson, Alexander J.</i>	
Money to be paid to.....	480
<i>Drug,</i>	
See abortion,.....	19
<i>Durfee, John,</i>	
Act for the relief of, and M. Ogden,.....	251
<i>Dutchess County,</i>	
Taxes of 1845.....	3
To elect three Members of Assembly,.....	48
See Senate Districts,.....	468
<i>Duties,</i>	
On goods sold at public auction,.....	65

E.

<i>Eagle.</i>	
Town of, annexed to Wyoming county, ...	53, 121
<i>Eagle Fire Company.</i>	
Act for the benefit of the, ...	295
<i>Eames, Theodore.</i>	
Official acts of, confirmed, ...	251
<i>Eastchester.</i>	
Acts to elect trustees of public lands in the town of, ...	208
<i>East River Mutual Insurance Company.</i>	
Act for the benefit of the, ...	337
<i>Ebenezer.</i>	
Act to incorporate the village of, ...	340
<i>Edwards, Charles.</i>	
Acts of, as a justice, confirmed, ...	10
<i>Eddyville Bridge Company.</i>	
Charter amended, ...	75
<i>Eels.</i>	
Act for the preservation of, in Southampton, ...	126
<i>Eggleston William.</i>	
Act for the relief of, and John Sanford, ...	167
<i>Eighth Senate District.</i>	
See Erie county Work House, Sec. 11, ...	78
<i>Ejectment.</i>	
Act to stay proceedings by bills of exceptions in actions of, ...	171
<i>Election.</i>	
Delegates to the State Convention, how elected, ...	98
Delegates to amend charter of New-York, ...	184
Of superintendents of the poor, &c., in Onondaga county, ...	186
Pay of clerks of, in Kings county, ...	187
<i>Elephant Hotel.</i>	
Act concerning road from, to Peekskill, ...	144
<i>Elizabethtown.</i>	
Act relative to roads in, ...	138
<i>Elmira and Williamsport Railroad.</i>	
Act to amend the charter of, ...	214
<i>Elwood, Isaac R.</i>	
Money to be paid to, ...	481
<i>Englishbee, Francis.</i>	
Act for the benefit and relief of, ...	181

on board such vessel, and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law ; and the expenses thereof shall be charged and collected as in the last preceding section.

Vessels remaining on first of Oct.

§ 11. All vessels and persons remaining at quarantine on the first day of October, shall thereafter be subject to such quarantine and restrictions, as vessels and persons arriving on or after that day.

Certain vessels at the wharves of the city may be ordered to quarantine ground.

§ 12. The board of health, or the mayor and commissioners of health, whenever in their judgment the public health shall require it, may order any vessel, at the wharves of the city, or in their vicinity to the quarantine ground, or other place of safety, and may require all persons, articles, or things, introduced into the city from such vessel, to be seized, returned on board, or removed to the quarantine ground. In case the master, owner, or consignee, of the vessel cannot be found, or shall refuse or neglect to obey the order of removal, the board of health, or the mayor and commissioners of health, shall have power to cause such removal at the expense of such master, owner or consignee ; and such vessel or persons shall not return to the city, without the written permission of the board of health, or the mayor and commissioners of health.

Vessels may be permitted to pass through the sound.

§ 13. If any vessel arriving at the quarantine ground, subject to quarantine, shall be bound to some port east of the city of New-York, the health officer, after having also visited and examined her, may permit her to pass on her voyage through the sound ; but no such vessel shall be brought to anchor off the city, nor shall any of her crew or passengers land in, or hold any communication with the city, or any person therefrom.

Provision respecting vessels infected with yellow fever.

§ 14. No vessel, found on examination by the health officer to be infected with the yellow fever, or to have been so infected, after sailing from her port of departure, shall be permitted to approach within three hundred yards of the city of New-York, between the first day of May and the first day October in the same year. But the health officer, with the permission of the board of health of the cities of New-York, or Brooklyn, may permit any vessel arriving at the port of New-York, to proceed to some wharf designated by the board of health of either of the cities of New-York or Brooklyn, and discharge its cargo, provided satisfactory proof be given to the health officer that the port or ports from which such vessel sailed was free from contagious or infectious disease at the time of her sailing therefrom, and that no sickness of a contagious or infectious type has existed on board the vessel during her entire voyage.

§ 15. The master of every vessel released from quarantine and arriving at the city of New-York, shall, within twenty four hours after such arrival, deliver the permit of the health officer at the office of the mayor and commissioners of health, or to such person as they shall direct ; but such vessel shall not approach within three hundred yards of the city of New-York, without the written permission of the mayor and commissioners of health.

Provision
respecting
vessels
released.

§ 16. Every vessel having had, during the voyage, a case of smallpox, or infectious or contagious disease, and every vessel from a foreign port having passengers, and not heretofore declared subject to quarantine, shall, on her arrival at the quarantine ground, be subject to visitation by the health officer, but shall not be detained beyond the time requisite for due examination, unless she shall have had on board during the voyage, some case of smallpox, or infectious or contagious disease, in which case she shall be subject to such quarantine as the health officer shall prescribe ; and it shall be the duty of the health officer, whenever he thinks it is necessary for the preservation of the public health, to cause the persons on board any vessel to be vaccinated.

Provision
respecting
small pox,
&c.

§ 17. Nothing in this act contained shall prevent any vessel arriving at the quarantine from again going to sea before breaking bulk.

Vessels may
go to sea.

§ 18. The commissioners of health shall admit into the marine hospital any passenger who shall have paid hospital moneys, during any temporary sickness, within one year after such payment. The mayor of the city of New-York, the resident physician, and the commissioners of health of said city, shall constitute a board of appeal from any direction or regulation of the health officer with power to grant such and so much relief, as may appear to the board thus constituted or a majority of them, expedient and proper ; the decision of the board of health however to be paramount.

Admission to
marine
hospital.

§ 19. Every appeal from a decision of the health officer shall be made by serving upon him a written notice of such appeal, within twelve hours after such decision, (Sundays excepted ;) and the health officer shall make a return in writing, including the facts on which the decision is founded, within twelve hours after the receipt of such notice, (Sundays excepted,) to the mayor, who shall immediately call a meeting of the board of appeal, and shall be president of said board ; and said appeal shall be heard and decided within twenty-four hours thereafter, (Sundays excepted ;) and the execution of the decision appealed from, shall be suspended until the determination of the appeal.

Right of ap-
peal.

Penalty for
refusal or
neglect.

§ 20. Every master of a vessel subject to quarantine or visitation, arriving in the port of New-York, who shall refuse or neglect either:

1. To proceed with, and anchor his vessel at the place assigned for quarantine, at the time of his arrival:

2. To submit his vessel, cargo and passengers, to the examination of the health officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought respectively to be subject ; or

3. To remain with his vessel at quarantine during the period assigned for her quarantine ; and while at quarantine to comply with the directions and regulations prescribed by law, and with such as any of the officers of health, by virtue of the authority given to them by law, shall prescribe in relation to his vessel, his cargo, himself or his crew, shall be guilty of a misdemeanor, and be punished by a fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Penalty.

§ 21. Every master of a vessel hailed by a pilot who shall either:

1. Give false information to such pilot relative to the condition of his vessel, crew, passengers or cargo, or the health of the place or places whence he came, or refuse to give such information as shall be lawfully required:

2. Or land any person from his vessel, or permit any person except a pilot, to come on board his vessel, or unlade or tranship any portion of his cargo, before his vessel shall have been visited and examined by the health officer:

3. Or shall approach with his vessel, nearer the city of New-York, than the place of quarantine, to which he shall be directed:

Shall be guilty of the like offence, and be subject to the like punishment. And every person who shall land from any such vessel, or unlade or tranship any portion of her cargo, under like circumstances, shall be guilty of the like offence and be subject to the like punishment.

Penalty.

§ 22. Every person who shall violate any provision of this act, or neglect or refuse to comply with the directions and regulations, which any of the officers of health may prescribe, shall be guilty of the like offence, and be subject for each offence, to the like punishment.

Penalty.

§ 23. Every person who shall oppose or obstruct the health officer in performing the duties required of him, shall be guilty of the like offence, and be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

§ 24. Every person who, without the authority of the health officer, commissioners of health or board of health; shall go within the enclosure of the quarantine ground, shall be guilty of the like offence, and be punished by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Penalty.

§ 25. Every person who shall go on board of, or have any communication, intercourse, or dealing with any vessel at quarantine, without the permission of the health officer, shall be guilty of the like offence, and be subject to the like punishment. And such offender shall be detained at quarantine, so long as the health officer shall direct, not exceeding twenty days, unless he shall be taken sick of some pestilential or infectious disease. Penalty.

§ 26. Every person who shall violate the provisions of the fifth article of title second of chapter fourteenth of part first of the Revised Statutes, by refusing or neglecting to obey, or comply with any order, prohibition or regulation, made by the board of health in the exercise of the powers therein conferred, shall be guilty of a misdemeanor, punishable by fine and imprisonment, in the discretion of the court by which the offender shall be tried. Penalty.

§ 27. Articles first, third, fourth and sixth, of title second, of chapter fourteenth, of part first of the Revised Statutes; an act entitled "An act to amend title second, chapter fourteenth, part first of the Revised Statutes, relating to the quarantine regulations of the port of New-York," passed May 2, 1836; an act entitled "An act relative to the quarantine laws," passed May 7, 1839; an act entitled "An act to amend the Revised Statutes relating to the public health," passed April 12, 1842, and all other laws inconsistent with this act are hereby repealed. Repeal.

CHAP. 301.

AN ACT to provide for building a bridge across the Wal-kill, between the house of John R. Wood and Refton Mills, in the county of Ulster.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The board of supervisors of the county of Ulster, are authorized and directed, at their next annual meeting, to cause to be assessed, levied and collected by tax on the taxable property of the several towns in the county of Ulster, in the proportions as hereinafter provided, such sum of money, not

to exceed two thousand dollars, as the commissioners hereafter named or a majority of them, shall certify to the said board to be requisite and necessary to erect a bridge across the Walkill, in the county of Ulster, on the line between the towns of Esopus and Rosendale, at such location, commencing and including the site of the present bridge, called Perrin's, near the house of John R. Wood, and Refton Mills or Arnold's Factory, as the commissioners hereinafter named may select.

To be apportioned on the towns of Esopus and Rosendale.

§ 2. The money so to be assessed, levied and collected by the board of supervisors as aforesaid, shall be by them apportioned and raised from the several towns in the county, in the proportions as follows, to wit: On the taxable property of the town of Esopus, one third part thereof; on the taxable property of the town of Rosendale, one third part thereof; and the balance to be assessed, levied and collected from all the taxable property of the remaining towns in said county, in the same manner as other town charges or contingent expenses of such towns are assessed, levied and collected.

Commissioners to locate bridge.

§ 3. That Daniel A. Dubois of the town of Rosendale, Thomas M. Holt and Ezekiel Brodhead of the town of Esopus, in the said county, are hereby appointed commissioners under this act, whose duty it shall be, and they are hereby directed to proceed with all proper diligence, and select and designate a location and site for said bridge within the limits aforesaid; are to select with reference and regard to economy and the convenience of the public; and make out and file with the clerk of the board of supervisors a certificate, under the hands of said commissioners, or a majority of them, specifying the location agreed and determined on, and the amount which will be necessary and requisite to be raised by said board of supervisors in manner aforesaid for the building of said bridge.

And to erect the same.

§ 4. And it shall be the further duty of said commissioners to proceed with all proper diligence to erect said bridge on such site as may be determined on as aforesaid, and apply said moneys so to be raised as aforesaid, to the costs and expenses of the building thereof, and to account to the board of supervisors at their first annual meeting after the completion of said bridge.

Moneys to be paid to them.

§ 5. Such moneys, when collected by the several towns as aforesaid, shall be paid to the treasurer of said county of Ulster, who shall pay the same on demand to the commissioners aforesaid for the purposes aforesaid.

Their pay.

§ 6. Each commissioner shall be allowed one dollar for every day necessarily employed in the discharge of his duties under this act.

§ 7. This act shall take effect immediately.

CHAP. 302.

AN ACT to amend an act entitled "*An act for the establishment and regulation of the Police of the city of New-York,*" passed May 7th, 1844.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

ARTICLE I.

Of Police.

§ 1. The watch department, as at present organized, is hereby abolished, together with the office of marshals, street-inspectors, health-wardens, fire-wardens, dock-masters, day police officers, sunday officers, inspectors of pawn-brokers and junk-shops, and of the officers to attend the polls at the several election districts of the city and county of New-York, and superintendent of roads of the twelfth ward of said city, except the office of mayor's or first marshal.

Watch department abolished.

§ 2. In lieu of the watch department, and the various officers mentioned in the foregoing section, there shall be established a night and day police, of not to exceed nine hundred men, including captains, assistant captains, sergeants and policemen.

Night and day police to be established.

§ 3. The police department shall consist of the following officers: chief of police, captains and assistant captains of police, sergeants of police, policemen and doormen.

Officers.

§ 4. Each ward of the city of New-York, shall be a patrol district. The corporation shall provide in each patrol district, suitable accommodation for the patrol of such district, to be designated "police station house." The patrol of each district shall consist of one captain of police, a first and second assistant captain of police, two or more sergeants, and such number of policemen as shall be apportioned to the ward or district, by an ordinance of the common council.

Each ward to be a patrol district.

§ 5. The captains, assistant captains, sergeants and policemen, shall, in and for the city of New-York, possess all the power now possessed by marshals appointed by the mayor of the city and county of New-York, except they shall not be entitled to execute civil process.

Powers of officers and policemen.

§ 6. The captain, assistant captains, sergeants and policemen of each district, in accordance with rules and regulations prescribed by the mayor in conformity to the laws of the state, and the ordinances of the corporation, shall watch and guard the district day and night, and protect the polls at elections.

To guard districts and protect polls.

To carry an emblem or device.

§ 7. The chief of police, captains, assistant captains, sergeants and policemen, shall carry a suitable emblem or device, by which they may, when necessary, make themselves known.

Duty of sergeants and policemen.

§ 8. It shall be the duty of the sergeants and policemen, to obey such orders as they may from time to time receive from chief of police captains and assistant captains of police, respecting their duty; and to report through the captains and assistant captains, to the chief of police, all violations of the corporation ordinances; to preserve the public peace; and it shall be the duty of policemen to render every assistance and facility to ministers and officers of justice, and to report to the captains of their respective districts, all suspicious persons, all bawdy houses, receiving-shops, pawn-broker's shops, junk-shops, second hand dealing shops, gaming houses, and all places where idlers, tiplers, gamblers and other disorderly and suspicious persons congregate; to caution strangers and others against going into such places, and against pick-pockets, watch stuffers, droppers, mock auctioneers, burners, and all other vicious persons; to direct strangers and others the nearest and safest way to their places of destination, and when necessary, to cause them to be accompanied to their destination by one of the police, and to perform all other duties which shall be prescribed to them by ordinance of the corporation.

Duty of clerks of police.

§ 9. The clerks in each police office, shall keep a proper book or books, in which shall be entered at length, a description of each and every article of stolen or other property, which shall be brought to said offices, or which shall be taken from prisoners, and what disposition has been made thereof; and they shall attach a number to each and every article, and enter a corresponding number in said book or books. They shall also keep a receipt book, for property delivered from said office; also a book to contain a statement of known burglaries, larcenies, and stolen property; a correct transcript of which last mentioned book shall be furnished each and every day to the chief of police, and perform any official service required of them by the special justice.

Punctual attendance required of officers and patrolmen.

§ 10. Punctual attendance shall be required of every officer and patrol-man connected with the department, on all occasions; sickness and disability only shall be an excuse for absence from duty; to be proved by the affidavit or affirmation in writing of the party that he was actually sick or disabled, and unable to do duty by reason of such sickness or disability; and it shall be competent for the captain of the district to administer the oath or affirmation.

Penalty.

§ 11. Any person or persons, who shall falsely represent any of the members of the police department of the city of

New-York, or who shall maliciously, with intent to deceive, use or imitate any of the signs, signals or devices adopted and used by the police department, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than five, nor more than two hundred and fifty dollars, or by imprisonment for a term not exceeding three months.

ARTICLE II.

Of Appointments and Removals.

§ 1. The chief of police shall be nominated by the mayor, to the common council, and with their approval shall be appointed by the mayor. Chief of police, how appointed. The chief of police must be a citizen of the United States, a citizen of the state of New-York, and an actual resident of the city and county of New-York; he shall hold his office for two years, unless sooner removed from office for cause; his removal from the city and county, shall vacate his office.

§ 2. All vacancies in the office of chief of police, shall be filled in the same manner. Vacancies.

§ 3. The aldermen and assistant alderman of each ward, shall nominate to the mayor, one captain, one first assistant captain, and one second assistant captain of police, and as many policemen as the ward may be entitled to; the mayor may appoint all or any of the persons thus nominated. Nominations how made. Should the mayor reject any such nominations, other persons shall in like manner be nominated to the mayor for such places. Each of said persons so nominated, must be a citizen of the United States, of the state of New-York, and a resident of the ward for which he may be nominated. All vacancies in any of said offices shall be filled in like manner. Removal from the ward shall vacate either of said offices. The captains, assistant captains and policemen, shall hold their offices for two years from the date of their appointment, unless sooner removed under this act. The captains of police of the several patrol districts shall appoint suitable policemen to perform the duties of sergeants of police.

§ 4. The chief of police and the captains of the police, shall have power to suspend policemen from office for cause; and the judges and justices shall have like power in reference to policemen attending their courts. Powers of chief and captains of police to remove or suspend policemen. In all such cases of suspension, the officer making the suspension shall, within twenty-four hours thereafter, notify the mayor of such suspension in writing, which notice shall specify the grounds of such suspension, and contain the names of the witnesses to establish the charge. The mayor shall receive from any persons, complaints for cause against the chief of police, captains, assistant captains, sergeants, policemen and door-men. In each

case of suspension and complaint, the mayor shall cause notice to the accused to be given, to afford him an opportunity to be heard in his defence. The mayor, or in his absence, the chief of police, shall examine witnesses under oath or affirmation upon the charges and in defence, and the mayor may for cause, continue the suspension, remove the accused from office, or restore him to duty. The testimony shall be reduced to writing, which testimony, together with the decision of the mayor thereon, shall be filed in the office of the clerk of the common council; but in all cases in which the suspension is continued, the party suspended shall be deprived of his pay from the date of his suspension, and during the continuance of the same. The mayor shall have power to issue subpoenas, to require the attendance of witnesses, as on the trial of such cases, and disobedience thereof shall render parties liable to the penalties provided by law, in courts of record.

Certificate of nominations to be sent to mayor.

§ 5. In making appointments under this article, the alderman and assistant alderman of each ward, shall transmit to the mayor a certificate of their nominations, which certificate, with the determination of the mayor endorsed thereon, shall be filed in the office of the clerk of the common council.

Exemption.

§ 6. No person connected with the police department, shall be liable to military or jury duty.

Provision in case of refusal or neglect to nominate.

§ 7. In case of the refusal or neglect from any cause, of the alderman and assistant, to nominate the officers for the said ward as hereinbefore provided, within twenty days after notice of any vacancy or vacancies occurring in either or all of said offices, then it shall be the duty of the mayor to proceed forthwith to make said appointment, and to fill said vacancy or vacancies.

Pawnbrokers and their books may be examined.

§ 8. The mayor, chief of police and the special justices and the captains of police, or by their, or by either of their order, shall have power to examine the books of any pawnbroker, and also to examine under oath the pawnbroker, his clerk or clerks, if they deem necessary, when in search of stolen property, and any person having in his possession a pawnbroker's ticket, shall, when accompanied by a policeman, or by an order from the mayor, chief of police, captain of police, or special justice, be allowed to examine the property purporting to be pawned by said ticket; but no property shall be removed from the possession of any pawnbroker without process of law, required by the existing laws of this state, or the laws and ordinances of the city of New-York regulating pawnbrokers.

ARTICLE III.

Compensation of Officers.

§ 1. The compensation of officers and patrol-men, named in this law, shall be fixed by the common council, but shall not exceed the following sums, to wit: chief of police, one thousand six hundred dollars; special justices, one thousand five hundred dollars; clerks of police, eight hundred dollars; captains of patrols, seven hundred dollars; assistant captains, six hundred dollars; sergeants and policemen, five hundred dollars. Police officers, when sent out of the county on public business, shall be allowed all necessary expenses upon the same being sworn to and approved by the mayor, and allowed by the board of supervisors.

Compensation of officers and policemen.

§ 2. No fees or compensation shall be charged or received by any magistrate, clerk, officer, policeman or constable, for the arrest of any prisoner, or for mileage, or for receiving any prisoner into the prison, or for discharging him from the same; and no fees or costs shall be charged or received for the issuing of any warrant, subpoena, or other process, or for the taking of a complaint, bail or affidavit, except as herein-after provided. Any magistrate or officer violating the provisions of this section, shall be guilty of a misdemeanor, and shall be subject to the pains and penalties for such an offence.

Restriction.

§ 3. The clerk of the court of sessions, shall file with the chief of police, a copy of all recognizances given to answer to a charge preferred for any criminal offence, on the same being forfeited; and it shall be the duty of the chief of police, to cause the same to be registered in a book to be kept for that purpose.

Duty of clerk of court of sessions.

§ 4. It shall be the duty of the sheriff, in all cases of forfeited recognizances, placed by the district attorney with him for collection, to report to the chief of police, the moneys collected on such judgments, immediately after the receipt of the same, and in case the amount of the judgment cannot be collected upon any forfeited recognizances, he shall immediately after the expiration of the time limited by law for making such collections, make a return of the same, with the causes of failure, to the chief of police, who shall, in all cases mentioned, enter into the book aforesaid the result thereof, opposite to the names of the persons who had become bail in such cases.

Duty of sheriff.

§ 5. Upon receiving information from the sheriff of failure to collect the amount of any forfeited recognizances, from the person or persons who had become bail in such case, the chief of police shall notify the court of sessions and the police courts of the names of such persons, and it shall be the duty of

Names of delinquents to be registered.

the clerks of said courts, to register the same into a book to be kept in said courts for that purpose.

Such persons not to be taken as bail.

§ 6. No person registered as provided in the last preceding section, shall be received by any judge or magistrate, as bail for any person charged with any offence whatever, and in all cases of bail taken for persons charged with any criminal offence, the judge or magistrate taking the same, shall require the person so becoming bail, to make affidavit in writing, that they are worth the amount for which they propose to become bail, which affidavit shall also include a description of the property constituting the amount of their liability.

Provision respecting bail.

§ 7. No officer authorized to let to bail a person charged with any criminal offence, shall accept as bail, any member of the police department, keeper, assistant keeper, or turnkey of any prison, or place of detention for persons charged with any criminal offence, or any attorney or counsellor practising in the court of sessions.

Bail, by whom to be taken.

§ 8. No officer, other than the committing magistrate, shall let to bail any person charged with a criminal offence, unless notice of the application to bail such person shall have been given to the district attorney of the city and county of New-York, at least two days before such application, specifying the name of the officer, the time and place when and where such application will be made, and the names and residence of the proposed bail, and the original commitment and proofs upon which it is founded, shall have been presented to the officer to whom the application for bail is made. The persons having the custody of such commitment and proofs shall, when required in writing, produce the same before the officer last mentioned.

Witnesses.

§ 9. The examination of a non-resident witness, or a witness about to depart beyond the jurisdiction of the court, may, on the application of the district attorney, or the party accused, upon his giving notice to the district attorney, be taken in the manner provided in section eleven of article four, of the act hereby amended.

Sections of act of 1833 to apply.

§ 10. Sections twenty and twenty-one, of an act entitled "an act relative to the powers of the common council of the city of New-York, and the police and criminal courts of said city," passed January 23d, 1833, shall apply to carts and cartmen, cabs and cabmen, hackney coaches and hackney coachmen, stages and accommodation coaches or omnibuses and their drivers, and public porters and hand-cartmen.

Repeal.

§ 11. Sections one, two, five, six, eight, nine, twelve, fourteen and fifteen, of article first; section one, two, three, four and six, of article third; and sections one, two and

twelve of article fourth, of the law hereby amended, are repealed.

§ 12. Nothing contained in this act shall be construed to prevent the captain, assistant captains and policemen, already appointed under the act hereby amended, from holding their offices for one year from the dates of their respective appointments. Saving clause.

§ 13. The board of supervisors of the city and county of New-York, shall have power to raise by tax the sum of fifty-seven thousand five hundred dollars, to defray the expense of the increase in the number of policemen provided for in this act, in case the common council shall deem such increase necessary. Money may be raised by tax.

§ 14. This act shall take effect on the thirteenth day of May, eighteen hundred and forty-six, except section two of article three, which shall take effect ten days after its passage. When to take effect.

CHAP. 303.

AN ACT for the relief of Jonas Ingraham..

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The canal commissioners are hereby authorized and directed to ascertain and pay to Jonas Ingraham, the amount that they may deem to be justly and equitably due him for work and labor done, and materials furnished, according to the contract prices made between the said Ingraham and Squire S. Case for constructing section number three of the Erie canal enlargement at Black-Rock ; the same having been brought into use by the canal commissioners during the past season ; to be paid out of any moneys in the hands of the commissioners of the canal fund not otherwise appropriated. Amount to be paid.

§ 2. This act shall take effect immediately.

CHAP. 304.

AN ACT to incorporate the Syracuse Society of Brotherly Love.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. Micir Weisman, Henry Rosenback, Marx Thalheimer, Leppmahn Manhendheimer, Sismond Manheimer, Joseph Schloss, Isaac Grison, Lab Hirsch Gauzenhausen, Solomon Hersch, Henry Extein, Manuel Rosendall and Sandel Rosenback, are hereby constituted a body politic and corporate, by the name of "The Syracuse Society of Brotherly Love."

Object of society.

§ 2. The object of said society is charitable and benevolent, and to afford relief to its members in case of infirmities and sickness.

Estate.

§ 3. The said corporation shall have power to purchase and hold real estate for its benefit ; provided the amount does not exceed five thousand dollars.

General powers.

§ 4. The corporation hereby created shall possess the powers, and be subject to the restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes.

§ 5. The legislature may at any time alter or repeal this act.

CHAP. 305.

AN ACT to authorize the canal board to assume in behalf of the State the Dansville slip and basin.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Conveyances when to be received.

§ 1. Whenever legal and proper receipts and releases, shall be duly executed by all persons claiming compensation for labor done and materials furnished, in making the Dansville slip and basin, and for moneys paid therefor ; and also for all damages which the construction thereof may have caused, and which the taking of any stream or streams of water for said slip and basin may have occasioned ; and also for all damages which may be appraised under the second section of this act, to the satisfaction of the canal board, then the canal board are authorized to receive conveyances of the said slip and basin, and the lands adjoining the same

necessary for the towing path and banks thereof, and for said stream or streams of water as a part of the lands, waters and property of the state, and to charge the same rates of toll thereon as on the other canals; and no water heretofore taken for said slip and basin shall be deviated therefrom.

§ 2. In case there should be any person or persons whose lands or waters are now or shall be required for the purposes of the said slip and basin, who shall refuse to convey their said lands or waters so used or required, the canal board shall cause the damages of the owners of such property to be appraised in the manner provided by law, for damages to owners for lands taken for the use of the state canals; and such damages so appraised shall be tendered to the person or persons entitled to the same, and if refused shall be paid into the treasury of the state without cost to the state. Damages, how to be appraised.

§ 3. Whenever such receipts, releases and conveyances shall be executed, and such damages paid and satisfied as above provided, so that the canal board are satisfied no just claims can be made on the state for any further damages, then the canal board shall be authorized to take the said slip and basin, and the necessary lands adjoining the same into their possession, and the same shall be a part and parcel of the Genesee-Valley canal. Slip and basin to be taken possession of.

CHAP. 306.

AN ACT to provide for building a bridge across the Rondout creek above the High falls in the town of Marbletown, Ulster county.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The supervisors of the county of Ulster, at the next annual meeting of their board, are hereby directed to assess, levy, and direct to be collected in the same manner as other county and town expenses are assessed, levied and collected, the sum of fifteen hundred dollars upon the several towns hereinafter mentioned, viz: Upon the town of Marbletown, two hundred and fifty dollars; upon the town of Rochester, two hundred dollars; upon the town of Wawarsing, two hundred dollars; upon the town of Rosendale, two hundred dollars; upon the town of Hurley, one hundred dollars; upon the town of Olive, one hundred dollars; upon the town of Kingston, two hundred and fifty dollars; upon the town of New-Paltz, one hundred dollars; upon the town of Loyd, fifty dollars; upon the town of Esopus, fifty dollars. Money to be raised by tax.

Commission-
ers to erect
bridge.

§ 2. Such money when collected shall be paid to Jacob J. Signer, Thomas Chambers and John Bogert, jr., who are hereby appointed commissioners, whose duty it shall be to erect said bridge with all proper diligence and apply all said moneys to the cost and expense of building said bridge, and to account to said board of supervisors for the money respectively raised in said county at the annual meeting of the board of supervisors at the first meeting after the completion of said bridge.

Their pay.

§ 3. Each commissioner shall be entitled to one dollar per day for every day necessarily employed in the discharge of their duties under this act.

§ 4. This act shall take effect immediately.

CHAP. 307.

AN ACT to consolidate and amend the act to incorporate the village of Lockport, passed March 26, 1829, and the several acts amendatory thereof.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Boundaries.

§ 1. The inhabitants of the county of Niagara, residing within the district of country included within the following bounds: Beginning on lot number five, in the fourteenth section of township number fourteen in the sixth range, at a point twelve chains east from the west line of said lot, and thirteen chains sixty links south from the north line thereof, and running thence north eighty-eight degrees west, parallel with the north line of lot number eleven in said section, and fourteen chains twenty-eight links south from the north line thereof, and in part, along the north line of that part of Jesse P. Haines' farm, which lies west of Washburn-street, one hundred and seven chains ninety-five links, to a point thirty chains fourteen links west of the east line of lot number fifty-eight in the seventh range; thence north parallel with the east line of said lot number fifty-eight, and of lots fifty-nine and sixty, in the said seventh range, one hundred and five chains seventy-five links to the south line of lot number sixty-one; thence continued north along the west line of lot number sixty-one, thirteen chains twenty-five links; thence east at right angles with the transit meridian line, about one hundred and seven chains, to a point twelve chains east of the west line of lot number five in the fifteenth section of township number fourteen in the sixth range; thence south, one hundred and twenty-one chains

eighty links, on a right line to the place of beginning, are declared to be a body politic and corporate, by the name of the village of Lockport. Corporation created.

§ 2. The said corporation shall possess the powers, and be subject to the liabilities, limitations and restrictions, contained in the first, second, third, fourth, sixth, seventh and eighth sections of title third, chapter eighteenth of the first part of the Revised Statutes, except the fifth and sixth subdivisions of the first section, but the said corporation shall not be subject to the provisions contained in the fifth, ninth and tenth sections of the said title. General powers.

§ 3. The said district shall be divided into two wards by the following lines, to wit: Beginning at the intersection of the southeast line of the aforesaid bounds of the incorporation, with the east bounds of the public highway, called East Fifth street, and running thence north three degrees west, along the east bounds of said East Fifth-street, to its intersection with the north bounds of the public highway, called Main street: thence south sixty-six degrees ten minutes west, along the north bounds of said Main-street, to the east line of lands deeded to the society of Friends: thence north, eighteen degrees and forty minutes west, along the said east line, to the south bounds of the public highway, called Chestnut-street: thence south sixty-six degrees and ten minutes west, along the south bounds of said Chestnut-street, to its intersection with the east bounds of the state road: thence on a direct line to the northeastern corner of village lot number seventeen, on the westerly side of said state road, which is also called North-street: thence northwesterly, following the direction of the northerly line of said village lot number seventeen, to the edge of the water in the natural canal basin: thence on a direct line to a point where the north line of Green-street, extended to the water in said canal, intersects the westerly side thereof: thence on the north line of said Green, to the east line of West-Second-street: thence on the east line of said West-Second-street, to the north line of farm lot number twelve, in the fourteenth section of the fourteenth township, in the sixth range: thence west on said north line to the little transit line (so called,) and thence northerly on said transit line, to the northerly bounds of the village incorporation, as described in the first section of this act. And all that tract of land on the westerly side of the said division line of the said wards shall be known and distinguished as the first ward of the said village of Lockport; and all that tract of land on the easterly side of the said division line, shall be known and distinguished as the Second ward of the said village. Wards.

Officers to
be elected.

§ 4. There shall be elected annually, in and for said village, five trustees, one treasurer, one collector, two constables, three assessors, and three fire wardens.

Voters.

§ 5. Every citizen possessing the qualifications required by law, to vote for town officers at the annual town meetings, who shall reside within the bounds of said village, and who shall have resided therein for the term of six months next preceding the time of such election, shall be entitled to vote for the above named officers.

Elections.

§ 6. Elections of the said officers shall be by ballot, and shall be conducted as follows: each elector offering to vote, shall deliver his ballot, so folded as to conceal its contents, to one of the officers holding the election, in the presence of the board.

Ballot.

§ 7. The ballot shall be a paper ticket which shall contain the names of the persons for whom the elector intends to vote, and shall designate the office to which the person voted for, is intended to be chosen; but such ballot shall not contain a greater number of names of persons than there are persons to be chosen at the election.

To be put in
box.

§ 8. The person receiving such ballot, shall, without suffering the same to be opened or inspected, deposit it in a proper box to be provided for that purpose by the trustees of said village.

Poll of elec-
tion.

§ 9. The poll of every such election shall be opened at nine o'clock in the forenoon, and may be continued open until four o'clock in the afternoon of the same day, and no longer.

Poll list.

§ 10. The name of each elector voting at the election, shall be written in a poll list to be kept by the officers holding the election; and after the poll of the election shall be closed, the said officers shall, without delay, publicly count such ballots unopened, and if the number of ballots in the said box shall exceed the number of electors contained in the poll list, the said officers shall draw out and destroy unopened, so many of such ballots as shall amount to such excess; and if two or more ballots are folded together, they shall not be estimated.

Canvass of
votes.

§ 11. The said officers shall thereupon immediately proceed publicly to canvass the votes taken at such election, and shall complete said canvass on the same day, and shall thereupon certify the number of votes given for each person for any of the said offices respectively; which certificate shall be filed in the office of the clerk of the said village on the same day.

Persons
elected trust-
ees.

§ 12. Three of the persons residing in that ward of the said village having the greatest number of inhabitants, and for whom the greatest number of votes shall have been giv-

en for the office of trustees, and two of the persons residing in the other ward of said village, and for whom the greatest number of votes shall have been given for the office of trustees, shall be therein declared to be duly elected trustees; and the persons having the greatest number of votes for each of the offices respectively, shall be therein declared to be elected to such office.

§ 13. The several officers so elected may continue to hold their offices until the next annual election, and until others are elected or appointed in their stead. Tenure of office.

§ 14. Annual elections may be held on the second Tuesday of May, in each year, and the trustees shall preside at, and be the board of inspectors of such elections. Annual election.

§ 15. The trustees shall give eight days' notice of such elections, by putting up in three of the most public places in said village, printed or written notices thereof. Notice to be given.

§ 16. Any person offering to vote at any election shall, if required by an elector, before he is permitted to vote, take the following oath: "You do swear, (or affirm,) that you are a citizen of this state, of the age of twenty-one years; that you have been for one year next preceding this election, an inhabitant of this state, and for the last six months a resident of the village of Lockport, and that you are now a resident of said village, and that you have not voted at this election."

§ 17. When any vacancy shall happen in the office of trustee, by death, resignation or otherwise, before the time of the annual election, the trustees may direct a special election to be held to fill such vacancy, and shall give the same notice thereof, as is required at an annual election; and all the proceedings in regard to such special election shall be conducted in the manner required by this act at an annual election. If no such special election shall be held, after notice thereof, as aforesaid, the said trustees may make appointments to fill such vacancies. Special election.

§ 18. All vacancies in other offices in said village may be filled by said trustees by appointment, and all such appointments by them to fill vacancies shall be entered in writing in the minutes of their proceedings. Vacancies, how supplied.

§ 19. The officers chosen at such special election, or appointed by the said trustees, may hold their offices until the next annual election, and until others are elected or appointed in their stead. Tenure of office.

§ 20. If any person being an elector in said village shall be elected or appointed to either of the said offices, and shall refuse or neglect to accept such office for the space of eight days after notice of such election or appointment, he shall be subject to a penalty not exceeding twenty-five dollars. Penalty for not accepting.

O.

<i>Ocean Steam Navigation Company,</i>	
Incorporated, ...	156
<i>Official acts confirmed.</i>	
Of Charles Edwards, ...	10
Of officers in the town of Ossinsing, ...	26
Of certain justices of the peace, ...	155
Of certain commissioners in Kings county, ...	251
See act extending powers of justices of the peace, ...	371
<i>Ogden, Mordecai,</i>	
Act for the relief of, and John Durfee, ...	251
<i>Ogdensburgh,</i>	
Act concerning road from, to Canton, ...	125
<i>Ogdensburgh and Heuvelton Plank Road,</i>	
Company incorporated, ...	188
<i>Oil,</i>	
Inspectors of, how appointed, ...	302
<i>Oneida County,</i>	
Taxes of 1845, ...	3
Act relative to common schools in Utica, ...	8
To elect four Members of Assembly, ...	48
Samuel Bloss authorized to erect a dock, ...	89
Indictments may be removed from recorder's court to oyer and terminer, ...	98
Act relative to road from Rome to Sacketts-Harbor, ...	250
Act to erect the town of Ava from Boonville, ...	315
Senate Districts, ...	468
<i>Oneida Reservation,</i>	
See act for the relief of John Moot, ...	134
Act for the relief of certain purchasers in 1829, ...	162, 343
<i>Oneida Second Purchase of 1829,</i>	
Act for the relief of certain purchasers, ...	162
<i>Onondaga County,</i>	
Taxes of 1845, ...	3
To elect four Members of Assembly, ...	48
Duty on salt reduced, ...	74
Act to preserve fish in Otisco lake, ...	125
Act for the education of Indian children, ...	127
Act to purchase land adjoining poor-house, ...	138
Plank road from Salina to Central Square, ...	178
Superintendents of the poor and other officers, how to be elected, ...	186
See act relative to a free bridge across Oswego river, ...	210
Office of inspector of salt abolished, ...	212
Senate districts, ...	468

	Page.
<i>Onondaga Indians,</i>	
Act to provide for the education of children of, ...	127
Duty of agent of, ...	127
<i>Onondaga Salt-Springs,</i>	
Duty on salt reduced, ...	74
Office of inspector of salt abolished, ...	212
Superintendent to act as inspector of salt, ...	212
Deputies to be appointed, ...	212
<i>Ontario County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Part of the Seneca road declared a highway, ...	457
Senate districts, ...	468
<i>Orange County,</i>	
Taxes of 1845, ...	3
Act relative to the assessors in Newburgh, ...	29
To elect three Members of Assembly, ...	48
Act concerning the district attorney of, ..	123
Act relative to the town records of Goshen, ...	366
Official acts of H. E. Conger as a justice, confirmed, ...	391
Senate districts, ...	468
<i>Order,</i>	
Act to enforce the laws and preserve order, amended, ...	68
<i>Orleans County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Supreme court commissioner to be appointed at Albion, ...	146
Senate districts, ...	468
<i>Orphan and Relief Association.</i>	
Of Hudson, incorporated, ...	94
<i>Osborn, John,</i>	
Allowance to, ...	478
<i>Ossinsing,</i>	
Election of officers for the town of, confirmed, ...	26
Name changed to Ossinng, ...	27
<i>Oswego,</i>	
Act relative to the police justice in the village of, ...	376
<i>Oswego County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Plank road from Salina to Central Square, ...	178
See free bridge across Oswego river, ...	210
Act relative to police justice in Oswego, ...	376
Act for building a town hall in Mexico, ...	377
Senate districts, ...	468

	Page.
<i>Oswego River,</i>	
Act to build a free bridge across the, ...	210
<i>Otsego County,</i>	
Taxes of 1845, ...	3
Drawing of jurors in, confirmed, ...	4
To elect three Members of Assembly, ...	48
Act relative to bridges in Butternuts, ...	314
Senate districts, ...	468
<i>Otisco Lake,</i>	
Act for the preservation of fish, ...	125
<i>Ott, James C.,</i>	
Act for the relief of, ...	298
<i>Owasco Lake,</i>	
Act for the preservation of trout in, repealed, ...	31
<i>Owego,</i>	
Act relative to school district number one, in the village of, ...	254
P.	
<i>Painted-Post Bridge Company,</i>	
Charter of, amended, ...	96
<i>Pamelia,</i>	
Act relative to bridges in the town of, ...	90
<i>Paper Writing,</i>	
See documentary evidence, ...	303
<i>Parades,</i>	
See Militia, ...	346
<i>Partition,</i>	
See act authorizing wills of real estate, &c., to be recorded, ..	204
<i>Partridges,</i>	
Act for the preservation of, in Saratoga county, ...	68
Act for the preservation of, in Columbia county, ...	88
Act to preserve in Ulster county, ...	89
<i>Paupers,</i>	
(See Poor.)	
<i>Pavilion,</i>	
Money to be raised by tax in the town of, ...	13
<i>Peck, William H.</i>	
Money to be paid to, ...	478
<i>Peekskill,</i>	
Act concerning road from Elephant Hotel to, ...	144
<i>Persia,</i>	
See Lodi Union School District, ...	254

	Page.
<i>Perrysburgh,</i>	
See Lodi Union School District, ...	254
<i>Pestilential diseases,</i>	
See Quarantine, ...	395
<i>Pike,</i>	
Town of, annexed to Wyoming county, ...	53, 121
<i>Pilot System,</i>	
See concurrent resolutions concerning the, ...	484
<i>Plaintiff,</i>	
See pleading in certain cases, ...	305
<i>Plank Road,</i>	
From Salina to Central Square, Oswego, ...	178
Aurora and Buffalo, ...	215
Buffalo and Lancaster, ...	260
<i>Plattekill,</i>	
Part of Shawangunk annexed to the town of, ...	124
<i>Pleading,</i>	
Act in relation to, in certain cases, ...	305
<i>Police,</i>	
Act for the establishment of, in the city of New-York, ...	403
<i>Police Justice,</i>	
In the village of Saratoga Springs, ...	252
In the village of Oswego, ...	376
<i>Polish Slavonian Literary Association,</i>	
Incorporated, ...	33
<i>Poor,</i>	
Allegany county, ...	121
Lewis county, ...	31
Onondaga county, ...	138, 186
Temporary relief of the, ...	308
Westchester county, ...	300
Wyoming county, ...	121
<i>Pope, Horatio G.</i>	
Allowance to, ...	477
<i>Pope, Martin</i>	
Act for granting land to, ...	181
<i>Portage,</i>	
Part of the town of, annexed to Wyoming county, ...	53, 121
Another part thereof annexed to the town of Hume, ...	54
Town of, annexed to Livingston county, ...	235
<i>Port Benjamin,</i>	
Bridge to be built at, in Ulster county, ...	85

	Page.
<i>Port Kent,</i>	
Railroad and Slack-water navigation from, to Boonville, ...	442
<i>Port of New-York,</i>	
Act concerning Quarantine at, ...	395
<i>Postmaster General,</i>	
Railroad companies to contract with, to carry mails, ...	271
<i>Potter, Heman B.</i>	
Receiver of estate of Buffalo Literary and Scientific Academy, .	91
<i>Prattsburgh,</i>	
Young Men's Lyceum of the village of, ...	450
<i>Pregnancy,</i>	
Act to punish the procurement of abortion, amended, ...	19
<i>Printing,</i>	
For the Senate and Assembly and the public offices, ...	20
<i>Prison,</i>	
Trial of convicts in county and state prisons, ...	5
See Erie county work-house, sec. 11, ...	78
See act in relation to crimes punishable with death, ...	131
See act relative to militia fines, ...	147
See House of Refuge, ...	150
Association of New-York incorporated, ...	175
<i>Prison Association,</i>	
Of New-York incorporated, ...	175
<i>Protection of the Public Works,</i>	
Act further to provide for the, ...	308
<i>Public Auction,</i>	
Act in relation to duties on goods sold at, ...	65
<i>Public Lands,</i>	
Act to elect trustees of, in Eastchester, ...	208
See Gospel and School lots, ...	210
<i>Public Libraries,</i>	
See Natural History, ...	142
<i>Public Printing,</i>	
Act to provide for the, ...	20
<i>Public Works,</i>	
Act to provide for the protection of the, ...	308
<i>Putnam County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Village of Cold Spring incorporated, ...	105
Senate Districts, ...	468

Q.

Quails.

(See Game.)

Quaker Run Creek.

Declared a public highway,..... 72

Quarantine.

Act concerning the, at the port of New-York, ... 395

Queens County.

Taxes of 1845,..... 3

Act concerning highways and bridges in, amended,..... 11

To elect one Member of Assembly,..... 48

Senate districts, ... 468

Quick Child.

See abortion,..... 19

R.

Ragan, Henry,

Official acts of, confirmed,..... 378

Railroad Companies.

To contract to carry mails of the U. S., (Chap. 215, Sec. 17,). 271

Railroads.

Auburn and Rochester,..... 196

Buffalo and Hinsdale, ... 317

Buffalo and Niagara falls, ... 263

Canandaigua and Corning,..... 203

Cayuga and Susquehannah,..... 202

Charters of, act in relation to,..... 168

Elmira and Williamsport,..... 214

Hudson and Berkshire, ... 458

Hudson River, ... 272

New-York and Connecticut,..... 264

New-York and Erie,..... 243, 459

New-York and Harlem,..... 248

New-York and New-Haven,..... 231

Northern Slackwater and Railway,..... 442

Schenectady and Catskill,..... 451

Schenectady and Susquehannah,..... 435

Tonawanda, ... 388

Troy and Turnpike,..... 461

United States Mail, (See Chap. 215, Sec. 17,)..... 271

Rate Bills.

See dissolution of common school districts,..... 70

Receiver.

Of estate of Buffalo Literary and Scientific Academy,..... 91

Of insolvent safety-fund Banks,..... 100

Recorder's Court.

Indictments may be removed from court of, in Utica,.....	98
Fees of, in certain cases,.....	98
See bailing prisoners in Erie county,.....	149

Records.

Certain to be transcribed for Wyoming county,.....	54
Clerk of New-York may copy certain,.....	134
Act authorizing wills of real estate, &c., to be recorded,.....	204
Certain, to be transcribed for Livingston county,.....	235
See act relating to documentary evidence,.....	303
See act respecting, of the town of Goshen,.....	366

Red Book.

Money to be paid for,.....	479
----------------------------	-----

Re-entry.

See act to abolish distress for rent,.....	369
--	-----

Regents of the University.

See act authorizing colleges, &c., to hold estate in trust,.....	76
Money to be paid to,.....	479

Relief of the Poor.

Act in relation to the,.....	308
------------------------------	-----

Rensselaer County.

Taxes of 1845,.....	3, 18
Act in relation to county courts in.....	11
To elect three Members of Assembly,.....	48
Act relative to mill privileges on Wynantskill,.....	75
Acts of J. Betts as a justice, confirmed,.....	391
Senate districts, ...	468

Rent.

Act to abolish distress for,.....	369
See act to equalize taxation,.....	466

Renwick, Robert,

Act for the relief of and others,.....	389
--	-----

Resolutions, Concurrent.

(See Concurrent Resolutions.)

Retailers of Intoxicating Liquors.

See act to amend excise law of 1845,.....	13
---	----

Revised Statutes.

See act relative to railroad charters,.....	168
To be furnished to the town of Goshen,.....	366
See act to abolish distress for rent,.....	369
See Quarantine laws, ...	401
One hundred copies of 3d edition to be purchased,.....	480

Rice.

Town of, erected in Cattaraugus county,.....	12
--	----

Richmond County.

Taxes of 1845,.....	3
To elect one Member of Assembly,.....	48
Act to confirm proceedings of town meeting in Southfield,....	61
Act to prevent the destruction of oysters in the waters of,....	167
Act for the better security of mechanics in,.....	206
Part of first Senate district,.....	468

Roads.

In Suffolk, Queens and Kings,.....	11
Bedford road in Brooklyn,.....	30
Rock Island and De Peyster, St. Lawrence county,.....	70
Quaker Run Creek,.....	72
Northern turnpike road, part a highway,.....	97
From the Elephant Hotel in Somers to Peekskill, ...	144
In Moriah and Elizabethtown, Essex county, ...	138
From Salina to Central Square, Oswego, ...	178
Ogdensburgh and Heuvelton plank road,.....	188
In Canajoharie,.....	196
Aurora and Buffalo plank road,.....	215
From Rome to Sackets Harbor,.....	250
Buffalo and Lancaster plank road,.....	260
In Essex, Hamilton and Warren,.....	297
In Flatbush, Kings county,.....	300, 304
From Herkimer village to Middleville,.....	305
Henrietta plank road,.....	325
Saranac River, declared a highway,.....	368
Part of the Seneca road a highway,.....	457
From Ogdensburgh to Canton,.....	125

Rochester City.

University incorporated,.....	160
Act to amend the charter of.	236
Bridge to be built across canal at Clay street,.....	304

Rock Island and Depeyster Road.

Act relative to,.....	70
-----------------------	----

Rockland County.

Taxes of 1845,.....	3
To elect one Member of Assembly,.....	48
Act to authorize the erection of county buildings,.....	165
Senate districts, ...	468

Rogers, Howard N.

Allowance to	478
--------------------	-----

Rogers, Simeon,

Act for the relief of,.....	56
-----------------------------	----

Roll,

See documentary evidence,.....	303
--------------------------------	-----

Rome,

Road from, to Sackets Harbor,.....	250
------------------------------------	-----

highway labor, shall be paid to the treasurer of said village and be by him kept as a separate fund for street expenses.

Highway
labor.

§ 40. Every male inhabitant of said village, above the age of twenty-one years, who is not possessed of personal or real estate in said village, liable to taxation, (excepting ministers of the gospel, priests of any denomination, paupers and lunatics,) shall each year be assessed one day highway labor, which may be commuted at fifty cents; and it shall be the duty of the assessor of each ward in said village, whenever required, to furnish the trustees of said village with a list of all the male inhabitants in each road district in their respective wards who are liable to be assessed for highway labor.

Duty of street
inspector.

§ 41. The said trustees shall deliver the list containing the tax against persons only with their warrant for the collection thereof annexed thereto, to the inspector of streets of each road district who shall possess the same powers, and perform the same duty in relation to the collection and working of such tax as overseers of towns possess by law, and the several justices of the peace residing in said village, shall have the same jurisdiction and powers in regard to the enforcing the collection and working of such tax as justices of the peace of the several towns of this state now possess by law.

Money, how
expended.

§ 42. It shall be lawful for the trustees of either ward of said village, by a unanimous vote of the trustees of such ward, to appropriate and expend such part of the moneys so raised for highway expenses in any district in such ward, in improving and repairing roads and highways lying out of said village and leading into the same in the bounds of such road district.

Contracts
may be made

§ 43. The said trustees may contract with any person (except with one of their own number,) for the construction, repair, or improving of any street, alley, crosswalk or bridge in any road district in said village, and on such terms as they shall deem advantageous to said village.

Streets, al-
leys or high-
ways may be
opened.

§ 44. The said trustees may lay out and open any street, alley or highway in any part of said village, and cause any street, alley, road or highway already laid out therein, to be opened, altered, or discontinued when and as often as they shall judge the public good shall require the same to be done; but such street, road, alley or highway, shall not be laid out or altered so as to run across or over the site of any building, the expense of removing which shall exceed two hundred dollars for any one street or object; the said trustees may cause common sewers, drains, ditches, gutters and vaults to be made in any part of said village, and order and direct the pitching, raising, levelling, grading, paving or gravelling of any of the streets, alleys or highways in said

village, and the making and repair of sidewalks, crosswalks, curbing and flagging in any of the streets of said village, and the making, repairing, enlarging and extending of any of the bridges in said village, and cause to be made an estimate of the expense thereof, or of conforming to any such alterations or opening of streets or highways, and to make a just and equitable assessment thereof among the owners, occupants or others interested in all the buildings, tenements, lots or real estate intended to be benefitted thereby, in proportion as nearly as may be, to the benefits or advantages which each shall be deemed to acquire thereby, and shall appoint three disinterested freeholders of the said village to make every such estimate and assessment, who, before they enter upon the execution of their trust, shall be duly sworn before any officer authorized to administer oaths to make the said estimate fairly and impartially, according to the best of their skill and judgment; and a certificate in writing of such estimate and assessment being returned to the said board of trustees and ratified by them, shall be binding and conclusive upon the owners, occupants and others interested in such buildings and lots. On the return and ratification by said trustees of such assessment, the said trustees may pass an ordinance requiring such owners, occupants, or others interested in the property or real estate so assessed, to make the improvement in such assessment specified, within thirty days from the time of the first publication of a notice of such ordinance; and a notice of such ordinance specifying the nature of such improvement and the sum assessed upon each parcel of property deemed to be benefitted thereby, shall be published in one or more of the newspapers printed in said village for three weeks, and once in each week successively; and such publication thereof shall be deemed a full and sufficient notice to all parties and persons interested in such proceedings. And if such improvement shall not be done in conformity with such ordinance, at the expiration of such thirty days, the said trustees may, and shall contract with any other person to do the same, for the lowest price or sum at which any person shall offer to do the same, and the expense thereof, with the fees, costs and expenses relating thereto, shall be and remain a specific lien on the property and real estate so assessed from the time of the ratification of such assessment until paid or otherwise satisfied.

§ 45. Any person who may conceive himself aggrieved, on account of any act of the said trustees or assessors by virtue of the last section, may appeal therefrom to the court of common pleas of the county of Niagara; and such appellant shall give notice of such appeal, together with his reasons therefor, to the said trustees, who shall make a full return of the facts Right of appeal.

and circumstances relating to such act or acts, the principle whereon the same is founded, together with the reasons given by the appellant on the appeal, to such court of common pleas, whose duty it shall be to hear and examine the allegations of the parties touching the premises, and to make such order thereupon as they shall deem equitable, which order shall be final and conclusive; but no such appeal shall be heard by the said court unless such notice, together with the reasons of appealing as aforesaid, shall be given to the president of the board of trustees, or in his absence, to the clerk of said village, within ten days after such person or his agent shall have notice of any such act of such trustees or assessors; and if there be not ten days between the time of giving such last mentioned notice, and then next common pleas, such appeal may be made to the court of common pleas, to be held next after such ten days.

New assessment may be made.

§ 46. If any assessment made by virtue of this act shall not be confirmed or ratified, or shall be set aside for any cause, the said trustees shall have power to require such assessors to make a new assessment, or to appoint new assessors whenever necessary, who shall perform the same duty as is required of the assessors originally appointed; and in case any assessor shall refuse or neglect to act, the said trustees may appoint another person to act in his stead.

Provision in case of neglect to comply or pay.

§ 47. In case any estimate or assessment mentioned in the forty-fourth section of this act, shall not have been complied with, and the sums thereby assessed shall not have been paid, the board of trustees may cause a notice to be published in one or more of the public newspapers printed in the said village, for six weeks, once in each week, thereby requiring the owners, occupants or persons interested in the lots, real estate or buildings, to pay the sums at which such lots, real estate or buildings shall be assessed, with all costs and expenses relating thereto, to the treasurer of said village, or in default thereof, such lot or building will be sold at public auction on a day and at a place in said village therein to be specified, for the lowest term of years at which any person shall offer to take the same, in consideration of advancing the sum assessed on the same, for the expense aforesaid, with the interest and cost thereof; and if, notwithstanding such notice and demand, the owner or owners, or the occupant or agent thereof, shall refuse or neglect to pay such assessment, with charges of appraisement and advertising and the interest as aforesaid, the said trustees may cause the same lot or buildings to be sold at auction for a term of years for the purpose, and in the manner expressed in the advertisement, and to give a declaration of such sale under their common seal, to any such purchaser, his executors, administrators and assigns, who shall by virtue

thereof, and of this act, lawfully hold and enjoy the same for his own proper use, against the owner or owners thereof, or any other person or persons claiming under him, until his term shall be complete and ended, and shall be at liberty to remove all buildings or materials which he shall erect or place thereon, but leaving the ground with sufficient fence, with the street fronting the same, in the order required by the said regulations.

§ 48. In case such lot, real estate or building, sold under the provisions of the last preceding section, shall be actually occupied at the time of such sale, the purchaser thereof at such sale, his heirs, executors, administrators or assigns, shall, within sixty days after such sale, serve upon such occupant the same notice required to be served by the thirty-third section of this act; and such occupant or the owner of the premises sold, his heirs, executors or administrators shall have the right to redeem the same from such sale, in the same time and manner, and upon the same terms and conditions mentioned in said thirty-third section; and in case of his or their neglect so to redeem, the purchaser at such sale, his heirs, executors, administrators or assigns, may, immediately after the expiration of the time limited for such redemption, enter into the possession of such lot, real estate or building, and hold, occupy and enjoy the same during the term for which it was sold.

Owner or occupant of lot may redeem.

§ 49. When any such regulation or improvement shall be completed, if it shall appear to the said board of trustees that a greater sum of money has been bona fide expended in making the same, than the sum estimated and collected as aforesaid, the said trustees shall cause a further assessment equal to such excess to be made and collected in manner aforesaid; but if such sum actually expended shall be less than the sum expressed in such estimate and collected as aforesaid, such excess shall forthwith be returned to the person from whom the same was collected, or their legal representatives, in proportion to the sums from them respectively collected.

Further assessments, when to be made.

§ 50. The said board of trustees, instead of the remedies before provided, if they shall see fit, in case any owner, occupant or other person of any such lot or building in the said village shall refuse or neglect to conform his lot or building to such regulations at his own expense, to cause it to be done, and to sue for and recover such expense from the owner or occupants or other persons interested in such lots or buildings, or their legal representatives, with interest, charges and costs, in which case such estimate or assessment, with the proof of the amount and payment of such expenses, shall be presumptive evidence for the said plaintiffs in any such action.

Owner or occupant may be sued.

Provision
relative to
altering or
widening
streets, &c.

§ 51. If in the opinion of the said board of trustees, the public interest of said village shall require that any street, lane or alley therein, should be altered by widening or altering the course of the same, or that any new street should be laid out and opened in said village, and that the land of any person is necessary to be taken for either of said purposes, including the site of any building or buildings, the expense of removing which shall not exceed two hundred dollars, the said trustees shall have power to alter, lay out and open any such streets, and shall give notice of their intention to appropriate such land for such streets to the person interested therein, or to his agents or legal representatives, and may treat with any such person or persons for the same; and if any such person shall refuse to treat with the said trustees for the same, or the trustees cannot agree with such person therefor, the president and any two or more trustees, by a precept under their hands and seals, may command any constable of said village to return and empanel a jury of twelve disinterested freeholders of said village, neither of whom shall be of kin to the parties interested, to appear before the president of said village within six days from the time of service of such precept, to enquire into and assess the damages and recompenses they shall judge fit, to be awarded to the owner or owners of such ground or other real estate or appurtenances for their respective losses, according to their respective estates and interests therein; and the verdict of such jury, and the judgment of the said president therein, and the payment of the sum of money so awarded and adjudged to the owner or owners thereof, or the tender and refusal thereof, shall be conclusive and binding against the said owner or owners, or his or their respective heirs, executors, administrators or assigns claiming any estate or interest in the same ground, or other real estate and appurtenances; and all notices required to be given by this section shall be served personally on parties resident within said village, and upon non-residents, by advertising the same six weeks successively in any newspaper published in said village.

Possession of
ground,
when to be
taken.

§ 52. The said board of trustees shall not take the possession of, or appropriate any such ground or other real estate until after such inquiry and payment, or tender and refusal of the money so awarded as aforesaid, and in order to provide for the payment thereof, the said board of trustees shall cause the same to be assessed upon the owners and occupants of lots and buildings to be benefitted by such improvement, in the same manner in which estimates and assessments are directed to be made and collected in and by the forty-fourth section of this act.

§53. On the payment or tender and refusal of the money awarded as aforesaid, the said trustees may thereupon cause the same land or real estate to be converted to, and used for the purposes aforesaid. Such payment or tender shall be made within one year after the award of the jury, unless an appeal shall be brought as hereinafter provided ; and in case of an appeal within six months from the time of the final adjudication of such appeal.

§54. If any such owner or parties shall be unknown to the said board of trustees, they shall cause notice as aforesaid to be given of such intended appropriation, to be published in one or more of the newspapers printed in said village, for six successive weeks, specifying therein the ground or other real estate or appurtenances to be appropriated, and after the expiration of such notice shall cause the damages to be assessed in manner aforesaid, without any notice, and the constable serving such precept, instead of summoning such owner or parties to appear, may serve a notice in writing, of the time and place of return in such precept, on the occupant of said premises, or if vacant, by affixing the same on some conspicuous part thereof, at least eight days before such return, which shall be deemed a sufficient service of notice, and it shall be sufficient to state in the precept that the premises belong to persons unknown ; and the said board of trustees may appropriate any such premises in case of unknown or non-resident owners or parties, before the payment of such sum or sums ; and such owner or owners or parties, or either of them applying for the same, to the said board of trustees, and on proving the extent of his or their interest in the premises so appropriated to the satisfaction of said board of trustees, they shall thereupon ascertain and determine the part or portion of the sum so assessed, to be paid to such owner or parties so applying respectively, and shall enter the same in their minutes; a copy of which entry, under the common seal of said village and certified by the clerk, shall entitle the said owners or parties respectively, to the sum or sums so ascertained and determined; and in case of non-payment on demand with interest, or in cases where the owner or parties shall be known and named in the precept, if the said board of trustees shall refuse or neglect to pay the sum or sums so assessed, with interest from the time of judgment rendered upon such assessment to the said parties or owners or either of them entitled to the same, such owner or parties may, in case the said trustees shall have collected by assessment on the property and real estate deemed to be benefitted by such improvement, a sum sufficient to pay all the expenses thereof, including the damages, sue for and recover the same from the said village, together with interest and costs ; and the proceedings under

Land, when
to be used.

Provision in
case of
owners be-
ing unknown

	Page.
<i>Supreme Court,</i>	
Commissioners residing in West part Monroe county,.....	133
Commissioner to reside at Le Roy,.....	145
Commissioner to reside at Ticonderoga,.....	146
Commissioner to reside at Albion,.....	146
Commissioner to reside at Greene,.....	147
Commissioner to reside at Sackets Harbor,.....	164
Wills proved in may be recorded,.....	204
Repairs of court room Albany, paid	479
<i>Surrogate,</i>	
Office for to be erected in Rockland county,.....	165
See act authorizing wills of real estate, &c., to be recorded, ...	204
May remove non-resident executors and administrators,.....	381
<i>Susquehanna Bridge Company,</i>	
Act to amend charter of,.....	170
<i>Surveyor-General,</i>	
His duty under the act to provide for the public printing,.....	20
(See Lands.)	
<i>Swan, Horace D.,</i>	
May keep a ferry,.....	379
<i>Sweden,</i>	
Act relative to School District No. 10, in the town of,.....	56
<i>Syracuse Society of Brotherly Love,</i>	
Incorporated, ...	410
T.	
<i>Talcott, Daniel W., junior,</i>	
Allowance to,.....	478
<i>Tavern Keepers,</i>	
See jurisdiction of justices' courts,.....	148
<i>Taverns,</i>	
See act to amend excise law of 1845, ...	13
See jurisdiction of justices' courts,.....	148
<i>Taxation,</i>	
Act to equalize, ...	466
<i>Taxes,</i>	
Albany city and county,.....	16, 53
Dissolution of common school districts,.....	70
Equalizing taxation,.....	466
Extension of time for the collection of taxes of 1845,.....	3
Hancock, Delaware county,.....	24
Italy, Yates county, ...	24
Kings county, ...	86
New-York,.....	19, 99
Pavilion, money to be raised by tax in, ...	13

	Page.
Rensselaer county, ...	18
Williamsburgh, Kings county, ...	141
<i>Taylor, J. Washington,</i>	
Money to be paid to, ...	479
<i>Tefft, Lake I.,</i>	
Money to be paid to, ...	478
<i>Telegraph,</i>	
Association incorporated, ...	474
<i>Temporary Relief of the Poor,</i>	
Act in relation to the, ...	308
<i>Thompson, Isaac and William,</i>	
Act for the relief of, and others, ...	169
<i>Thompson, James, deceased,</i>	
Act for the relief of his minor heirs, ...	25
<i>Ticonderoga,</i>	
Supreme court commissioner to be appointed at, ...	146
<i>Tillinghast, J. L.,</i>	
Money to be paid to, ...	480
<i>Tioga County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
School district number one, village of Owego, ...	254
Senate districts, ...	468
<i>Titus, Mary Agnes,</i>	
Act for the relief of, and others, ...	375
<i>Town House,</i>	
To be erected in Canton, St. Lawrence county, ...	84
To be erected in Constable, Franklin county, ...	87
Town hall to be erected in Mexico, ...	377
<i>Tompkins County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Senate districts, ...	468
<i>Tonawanda Railroad,</i>	
Act to regulate price for transporting freight on, ...	388
<i>Town Superintendents,</i>	
Of common schools, to have charge of gospel and school lots, .	210
<i>Towns,</i>	
Assessors, taxation to be equalized, ...	466
Ava, Oneida county, erected, ...	315
Clerks of, to make return of votes given for and against licenses, .	13
Cortlandville, Cortland county, lot number eight Virgil annexed to, ...	78

under the common seal thereof, and paid into the hands of the treasurer.

Pay of trustees.

§ 62. From and after the passage of this act, the trustees of said village shall not be entitled to receive pay for their services as such trustees, except when upon the question being submitted for the meeting called in each year to vote a tax for contingent expenses of said village, a majority of those present shall vote in favor of paying them a compensation, and fix the amount of it for the current year.

Treasurer's accounts, how audited.

§ 63. The board of trustees shall meet together within ten days next preceding the annual election of officers in each year, for the purpose of auditing and settling the treasurer's accounts; and the said treasurer shall cause to be published in a newspaper printed in said village, next before any such election, an abstract of the amount of all moneys received by him, and from whom, and of all moneys paid out by him, and to whom, and for what purpose, during the year preceding; and whenever the said treasurer shall go out of office, he shall account with his successor for all moneys remaining in his hands and unapplied to the purposes of this act, and on failure or neglect to do so, the same may be recovered of him and his sureties in the name of his successor.

Debts against the village.

§ 64. The said trustees shall meet on the first Tuesday of May, in each year, for the purpose of auditing all debts, claims, demands and accounts against the village, and may adjourn such meeting from time to time, as they shall deem necessary; and notice of such meeting shall be given by advertising the same one week, in one or more of the public newspapers in said village.

Suits against the village.

§ 65. No person shall hereafter institute any suit or proceedings against said village, upon or to recover any debt, claim, demand or account, unless he shall have first presented such claim, debt, demand or account to said trustees at the annual meeting for auditing accounts, mentioned in the next preceding section; and all debts, claims, demands and accounts against said village, shall be barred and deemed satisfied and discharged, that are not so presented for auditing to said trustees within three years after the same shall have accrued.

Fees of collector.

§ 66. Whenever any warrant shall be issued by said trustees for the collection of any tax or assessment under any of the provisions of this act, it shall be lawful for the collector of said village to demand, collect and receive by virtue of such warrant, of every person therein named, the amount of his fees for collecting the same, of each person, in addition to the tax therein mentioned, in the same manner as the fees of town collectors are now collected by law.

Taxes, how collected.

§ 67. All taxes authorized to be raised by this act, except assessments for specific local improvements, may be included

in, and collected by one warrant, at the discretion of the trustees; but each tax shall, in such warrant, be kept and set forth in a column by itself, distinctly; and all taxes or assessments authorized by this act to be raised or assessed, shall be and remain a specific lien on the real estate or property upon which the same shall be apportioned, levied or assessed, until paid or otherwise satisfied.

§ 68. Any moneys that shall come into the hands of either of the said trustees, or of any officer of said village, pursuant to the provisions of this act, shall be immediately paid over by them into the hands of the treasurer of said village, and shall and may, by the order of the said trustees, from time to time, be drawn out of his hands on the warrant of the president, or in his absence, of either of the trustees; which warrant shall specify the object for which the said money is drawn, and is to be applied, and for every neglect by any officer to pay over such moneys, he shall be liable to a penalty of ten dollars, which may be sued for by said trustees and recovered for the use of the village.

Moneys.
how drawn
from the
treasury.

§ 69. The treasurer of said village shall keep a book to be provided by the said trustees, in which he shall make an entry of all moneys received by him and drawn out of his hands, the object and purpose for which the same is so drawn, and to whom the same is paid.

Duty of
treasurer.

§ 70. The constables chosen by virtue of this act, shall have power to execute any civil process issued by any justice of the peace residing in said village of Lockport, and any criminal processes delivered to him at any place in said county, and they shall, when required by the sheriff of the county of Niagara, attend all courts of record within the said county, in the same manner as other constables of the said county are required by law to do, and shall be entitled to the same fees for any services by virtue of this act, which any constable of said county are by law entitled to have and receive for like services, and the bail bonds given by such constables, or security taken from them by said trustees for the faithful performance of their duties, may be prosecuted in all cases in the same manner as the bail bonds of constables of towns are allowed to be prosecuted by law.

Powers and
duties of
constable.

§ 71. If the annual election shall not be held on the day appointed therefor, it shall be the duty of the said board of trustees, immediately thereafter, to notify an election to be held, at which the several officers directed to be elected by this act, shall be elected, which election shall be notified and held, and in all respects conducted according to the directions of this act for annual elections.

Saving
clause.

§ 72. A census of the inhabitants residing in each of the wards of said village, shall be taken therein at least once in

Census to be
taken every
three years.

three years, by a proper person or persons for that purpose, to be appointed by the board of trustees of said village, whose duty it shall be to make such appointments, and which census shall be taken not more than thirty days nor less than ten days next preceding the annual elections of said village, by this act directed to be held; and it shall be the duty of the person or persons, so as aforesaid appointed to take the census of said village within the time limited for completing such census, to make and file in the office of the clerk of said village, a statement in writing, setting forth the aggregate number of inhabitants of said village, and also the aggregate number of inhabitants residing in each respective ward thereof, which said statement so filed shall be conclusive evidence of the number of inhabitants residing in the respective wards for the purpose of determining the location of trustees, as is before in this act provided; and it shall be the duty of the trustees in all notices of election of trustees, to specify the ward which is entitled to the location of three of the said trustees as is before provided in this act.

Amount of penalties.

§ 73. No penalty or fine to be declared by any by-laws or ordinance, shall exceed the sum of fifty dollars unless the same is hereby expressly authorized; nor shall any by-laws or ordinance be made inconsistent with any existing law of this state.

Suits to be brought by the trustees.

§ 74. All suits for penalties and fines shall be brought by the said trustees in the corporate name of said village, and may be brought before any justice of the peace of the town of Lockport, or of any town adjoining, in said county of Niagara, which justice shall have authority to hear and determine the same, in which it shall be sufficient for the plaintiff to declare, generally, in an action of debt, and give the special matter in evidence; and all penalties and fines paid, and all sums of money recovered under this act, shall be for the benefit of the said corporation, and paid into the office of the treasurer.

Warrants may be renewed.

§ 75. The said trustees may renew, from time to time, any tax or assessment warrant issued by them if they shall deem it expedient; and in case the term of office of any collector elected or appointed under this act shall expire while any such warrant remains uncollected in his hands, such collector may execute such warrant in the same manner as if his term of office had not expired.

Estate.

§ 76. The estate real and personal which the said corporation may hold and purchase, shall not at any time exceed in value the sum of ten thousand dollars.

Saving clause.

§ 77. No person shall be an incompetent judge, justice, juror, constable, or witness by reason of his being an inhabitant or freeholder in said village, in any action or proceeding in

which said village is a party, or interested, except as herein-otherwise provided.

§ 78. All former acts relating to the village of Lockport ^{Repeal.} are hereby repealed, but such repeal shall not affect any act done, or right secured or established, or any suit, proceeding or prosecution had or commenced previous to the time when such repeal shall take effect; but every such act, right or proceeding shall remain as valid and effectual as if said acts had remained in force; and all officers elected or appointed under, or by virtue of any act hereby repealed, shall continue in office until their successors are elected or appointed according to this act; and all estates, real and personal, vested in or belonging to the village of Lockport, when this act shall take effect, shall continue to be vested in and belong to said village.

§ 79. This act is declared to be a public act and shall take ^{Public act.} effect immediately.

§ 80. The legislature may, at any time hereafter, alter, ^{Right to re-} modify or repeal this act. ^{peal.}

CHAP. 308.

AN ACT to provide for the construction of a railroad from Schenectady to the New-York and Erie railroad, in the county of Chenango or Broome.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders, pursuant to this act, shall be and they are hereby constituted a body politic and corporate, by the name of "The Schenectady and Susquehannah Railroad Company," for the purpose of constructing and maintaining a railroad between the city of Schenectady in the county of Schenectady and the New-York and Erie railroad, commencing in the city of Schenectady and running through the valleys of the Normanskill, Cobleskill, Schenevas, and the east branch of the Susquehanna, as the directors of the said company shall determine to be best adapted to the public accommodation; and to take, transport, carry and convey, property and persons upon the same, by the power of steam, of animals, or any mechanical power, or any combination of them, with permission also to make any lawful contract with any other railroad company. And on the construction of each and every ten miles of the said railroad, it shall be lawful for the said company to receive and exact such reward for the transportation of persons and property thereon as may be established in pursuance of this act.

Time limited § 2. If the said corporation shall not within five years from the passage of this act, commence the construction of the said road, and expend at least the sum of one hundred thousand dollars thereon, and shall not within ten years from the passage of this act, finish a single track of the said road and put the same in operation, then the said corporation shall thenceforth forever cease, and this act shall be null and void.

Capital stock § 3. The capital stock of the said corporation shall be one million five hundred thousand dollars, with power to increase the same to two millions ; which stock shall be divided into shares of one hundred dollars each ; which shares shall be deemed personal property, and be transferred in such manner as the said corporation shall in its by-laws direct.

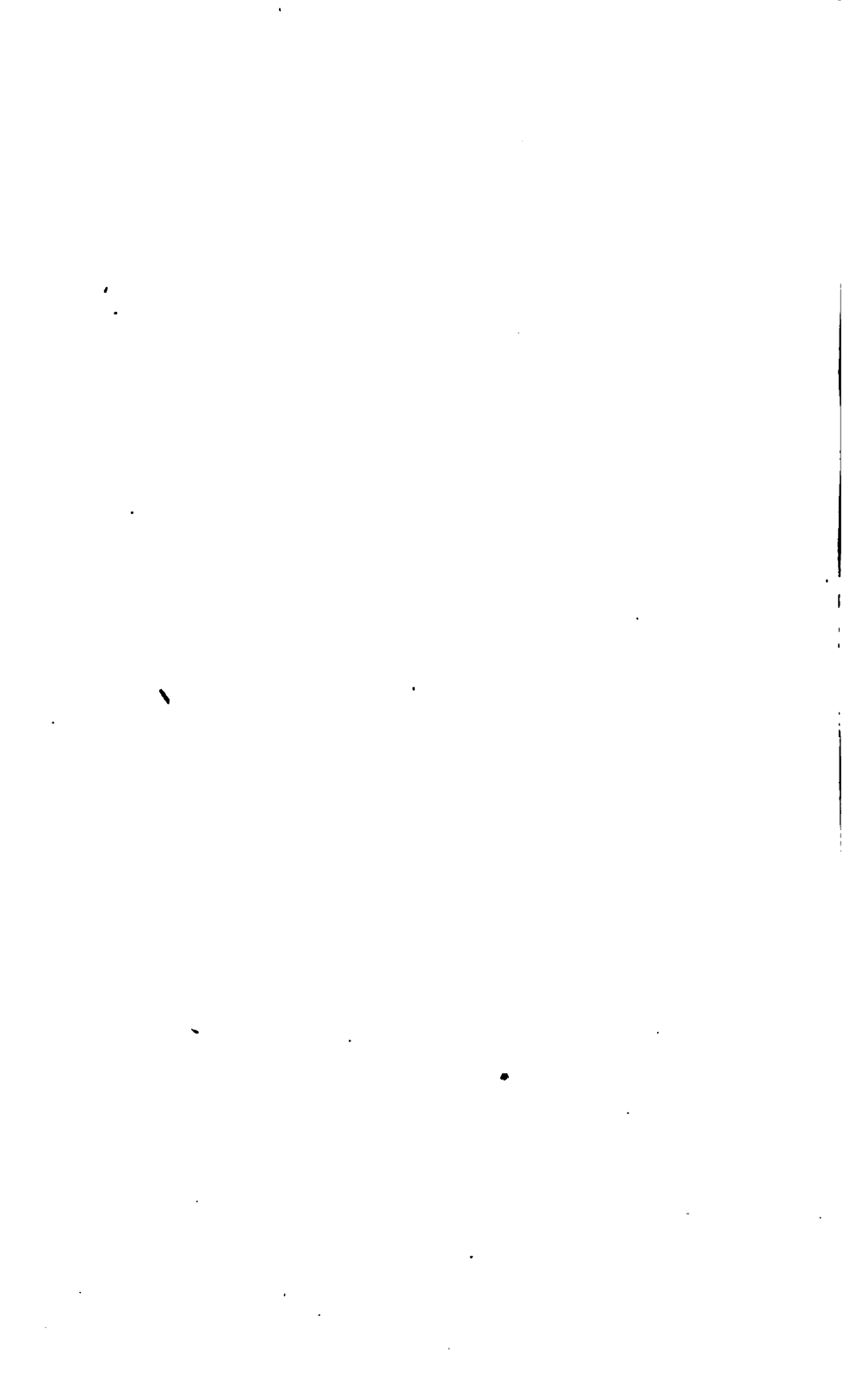
Subscriptions to stock § 4. Jared Goodyear, Seth Chase, Eliakim R. Ford, George H. Noble, Leonard Caryl, Edmond B. Bigelow, John Westover, Jedediah Miller, Philip Mann, Olaffe H. William, George W. Chase, Edwin Northrop, Richard M. Juliand, Samuel W. Jones, and Alexander C. Gibson, shall be commissioners, whose duty it shall be, within two years after the passage of this act, at some suitable places in the counties of Schenectady, Schoharie and Otsego, to be fixed by said commissioners, to open books to receive subscriptions to the capital stock of said corporation, and thirty days' public notice shall be given by said commissioners of the time and place of opening said books, in one of the newspapers of said counties. The said commissioners shall, at the time of any subscription, require the payment to them, by the persons subscribing, of ten dollars towards and upon every hundred dollars of said capital stock so subscribed, and unless the same shall be paid the subscription shall be invalid ; and in case a greater amount in the whole shall be subscribed than one million of dollars, the said commissioners shall distribute the stock in such manner as a majority of them shall deem most advantageous to the public interest ; but in case the capital stock of said corporation shall not be wholly subscribed, then the said commissioners shall be authorized to reopen said books at such other times and places, in such manner, and after such notices as they or a majority of them may direct ; and whenever said capital stock shall be subscribed and distributed as aforesaid, or as soon thereafter as practicable, it shall be the duty of the said commissioners to give thirty days' notice in a public newspaper in each of the counties of Schenectady, Schoharie and Otsego, for a meeting of the stockholders, at such time and place as the said commissioners or a majority of them shall appoint, to choose thirteen directors ; and such election shall be then and there made, by such of the stockholders as shall attend in proper

Election of directors.

person for that purpose, each share of the capital stock owned by a citizen of the United States, entitling a stockholder to one vote ; and the said commissioners or a majority of them shall be inspectors of the first election of directors of the said corporation, and shall certify, under their hands and seals, the names of those duly elected, and deliver over the subscription money and books to the said directors, and they shall also fix the time and place of the first meeting of the directors, and the said directors shall cause such examinations and surveys to be made as to enable them to select the most advantageous route for the said road ; and the said directors shall, after such examinations and surveys have been made, select, and by certificates, under their hands and seals, designate the route which they shall deem the most advantageous for the said road, one of which said certificates shall be filed in the offices of the clerks of said counties of Schenectady, Schoharie and Otsego ; and the route so selected and certified, shall be deemed the route on which the said corporation shall construct the said road, as hereinafter mentioned.

§ 5. The first directors chosen shall hold their offices until the first Monday in June in the year next succeeding their election, and until others shall be chosen ; and every election of directors thereafter shall be annually on the first Monday in June in each and every year, and at such time and place in either of the counties aforesaid as the said directors shall appoint, giving thirty days' previous notice in the manner prescribed for giving notice by the commissioners of opening the books for subscriptions ; every election shall be held under the inspection of five stockholders not being directors, who shall be previously appointed by the board of directors ; all elections shall be by ballot, and a plurality of the votes cast shall constitute a choice, and three at least of the directors shall reside in each of the counties before mentioned. In case of an equal number of votes for any one or more directors, the directors elected shall determine by ballot who shall be entitled to a seat at the board. Every stockholder being a citizen of the United States shall be entitled to one vote as aforesaid, on every share held by him for thirty days previous to said election. Annual election.

§ 6. In case it shall at any time happen that an election of directors shall not be made on any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved ; but such election may be subsequently made, and the directors for the year preceding shall hold their seats at the board until such election shall be made. Saving clause.





ment the whole tolls as to such parts shall be waived by said company, and the said company shall have the same remedies for the collections of any tolls to which it may be entitled after such agreement as it is now by law entitled to.

Parts ceded,
how kept in
repair.

§ 3. On such cessions being made the said company shall be discharged from all liability to keep the parts so ceded in repair, and thenceforth the said mayor and common council of the city of Brooklyn shall be bound to keep the same in repair until the parts so ceded shall be closed according to law.

And when
to be closed.

§ 4. The parts so ceded may be closed by order of the said the mayor and common council of the city of Brooklyn, without any petition to them, at any time, if other streets or avenues convenient to and communicating with the other parts of said turnpike roads shall have been opened and regulated, and such proceedings shall in other respects be had as are provided by law for the closing of streets or avenues in said city.

Saving
clause.

§ 5. Nothing herein contained shall interfere with any existing right of the said mayor and common council in relation to the opening of streets and avenues in said city.

CHAP. 311.

AN ACT to provide for the construction of a railroad and slack-water navigation from or near Port-Kent, on Lake Champlain, to Boonville.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. All persons who shall become stockholders pursuant to this act shall be, and they are hereby constituted a body politic and corporate, by the name of "The Northern Slack-water and Railway Company," for the purpose of constructing and maintaining a railroad between the village of Port-Kent, or its vicinity, in the county of Essex, and some point on the Saranac river, at or near McClenathan falls, by the most eligible route, from thence by river, canal and lake navigation, through Saranac river, Racket river, Long lake, Crotchet and Racket lakes, also the Moose lakes, to some convenient point on the Moose river, and from thence by railroad by the most eligible route to intersect with the Black River canal, at or near Boonville in the county of Oneida, with liberty to construct the entire route through as above specified, from at or near Port-Kent to, at or near Boonville ; and also with the liberty of constructing the railroad and

river, lake and canal navigation, from at or near Port-Kent, in the county of Essex, to and including Long lake, in the county of Hamilton, retaining for the purpose of such construction, all the rights and privileges hereby granted; and also with the like liberty of constructing the railroad, river, lake and canal navigation from some point at or near Boonville, in the county of Oneida, through a part of Moose river, the Moose lakes, Racket and Crotchet lakes, to Long lake, in the county of Hamilton, retaining also for the purpose of such construction all the rights and privileges hereby granted, with authority to take, transport, carry and convey property and persons upon the same, or either of the parts so to be constructed as above, by the power of steam, of animals, or any mechanical power, or of any combination of them; and also with the further exclusive right and liberty, within twelve years from the passage of this act, of connecting with any point or points upon the entire line of communication, either by canals, railroads, or in any other manner, the waters of any part of the Beaver, Hudson, Racket and Saranac rivers, or lakes north of the north bounds of Saratoga county, with the same rights, privileges and disabilities as are herein and hereby created or imposed in reference to the line or route, or lines or routes, hereby authorized to be made and constructed as aforesaid.

§ 2. If the said corporation shall not, within three years Time limited from the passage of this act, commence the construction of said railroad or water navigation, and expend the sum of twenty-five thousand dollars, and shall not, within four years from the passage of this act, finish and put in operation the said railroad and water navigation between Long lake, and at or near Boonville, or shall not, within seven years from the passage of this act, finish and put in operation the said railroad and water navigation between Long lake and some point at or near Port Kent, then the said corporation shall thenceforth forever cease, and this act shall be void; except that if one hundred thousand shall have been expended by said corporation, such portions of said road as shall have been constructed, shall be vested in said corporation for and during the period allowed in this act of incorporation. But the said corporation shall be allowed the term of ten years from the passage of this act to construct the railroad and water navigation from, at or near Boonville, in the county of Oneida, to, at or near Port-Kent, in the county of Essex.

§ 3. The capital stock of the said corporation shall be two Capital stock millions of dollars, which shall be divided into shares of one hundred dollars each, which shares shall be deemed personal property and be transferred in such manner as the said corporation shall in its by-laws direct.

Subscrip-
tions to stock

§ 4. William V. K. McLean of Ausable, Clinton county, Thomas A. Tomlinson of Keeseville, John Rogers of Black-Brook, Clinton county, Farrand N. Benedict of Burlington, Vermont, Francis Seger, of Lewis county, Rutger B. Miller of Oneida county, Gerrit Smith of Madison county, and Amos Dean of Albany, shall be commissioners, whose duty it shall be, within four months after the passage of this act, at some suitable place in the cities of Utica and Albany, and in the villages of Boonville, Port-Kent, Burlington, Vermont, and in such other place or places as a majority of them shall direct, to open books to receive subscriptions to the capital stock of said corporation; and twenty days' public notice shall be given by the said commissioners, of the time and place of the opening of such books, in a newspaper of the city of Utica, and in the city of Albany; and the said commissioners shall, at the time of any subscription, require the payment to them, by the person or persons subscribing, five dollars towards and upon every hundred dollars so-subscribed; and unless the same shall be paid, the subscription shall be invalid; and in case a greater amount in the whole shall be subscribed than two millions of dollars, the said commissioners shall distribute the stock among the subscribers in proportion to their subscription; but in case the capital stock of said corporation shall not be subscribed, then the said commissioners shall be authorised to re-open the said books, at such other times and places, and in such manner, and after such notice, as they or a majority of them shall direct; and whenever capital stock to the amount of five hundred thousand dollars shall have been subscribed, or as soon thereafter as is practicable, it shall be the duty of the said commissioners to give thirty days' notice in a public newspaper in the counties of Oneida, Herkimer, Clinton, Essex and Franklin, for a meeting of the stockholders, at such time and place as the said commissioners or a majority of them shall appoint, to choose thirteen directors; and such election shall be then and there made, by such of the stockholders as shall attend for that purpose, either in person or by proxy, each share of the capital stock owned by a citizen of the United States entitling a stockholder to one vote; and the said commissioners shall be inspectors of the first election of directors of the said corporation, and shall certify under their hands the names of those duly elected, and deliver over the subscription money and books, and all vouchers and papers relating to said corporation, to said directors; and the time and place of holding the first meeting of the directors shall be fixed by the said commissioners; and the said directors shall cause such examinations and surveys for the said railroad and water navigation to be made as may be necessary to the

Election of
directors.

selection by them of the most advantageous course for the said road and water navigation from said Boonville to said Port-Kent, or from said Boonville to Long lake, or from Long lake to said Port-Kent or its vicinity, as they or a majority of them shall deem expedient ; and the said directors shall, after such examinations and surveys shall have been made, or as soon as they shall become possessed of sufficient information for that purpose, select, and by certificate, under their hands and seals, designate the course which they shall deem most advantageous for the said road and water navigation, one of which certificates shall be filed in the office of the clerk of each of the counties through which said road and water navigation shall pass ; and the course so selected and certified shall be deemed the course on which the said corporation shall construct the said road and water navigation, or so much and such parts thereof as the said corporation shall construct, being not less, to entitle it to the rights and privileges of this act, than the part between Boonville and Long lake, or that between Long lake and Port-Kent.

§ 5. The first directors chosen shall hold their office until the first Monday of June, in the year next succeeding their election, and until others shall be chosen ; and every election of directors thereafter shall be annually, on the first Monday in June in each and every year, at such time and place in Boonville, Utica, Albany, or Keeseville, in Essex county, as the said directors shall appoint, giving thirty days' previous notice, in the manner prescribed for giving notice by the commissioners for the opening of the books. Every such election shall be held under the inspection of five stockholders, not being directors, who shall be previously appointed by the board of directors. All elections shall be by ballot, and a plurality of the votes shall constitute a choice. One at least of said directors shall reside in each of the places last mentioned. In case of an equal number of votes for any two or more directors, the directors shall determine by ballot who shall be entitled to a seat at the board ; every stockholder being a citizen of the United States shall be entitled to one vote, personally or by proxy, on every share held by him thirty days previous to such election. Annual election.

§ 6. In case it shall at any time happen that an election of directors shall not be made on the day when pursuant to the act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved ; but such election shall be subsequently made, and the directors chosen for the year preceding shall hold their offices until such election shall be made. Savings clause.

Real estate,
how to be
acquired.

§ 7. The corporation is hereby empowered to purchase, receive and hold such real estate as may be necessary for accomplishing the objects for which this incorporation is created, and may enter upon and take possession of and use all such real estate as may be indispensable for the construction and maintenance of their single or double railroad and water navigation, and the necessary accommodations required and appertaining thereto ; and may also receive, hold and take all such voluntary grants and donations of land and real estate and personal property, for the purpose of said road and water navigation, as shall be made to said corporation, to aid in the construction, maintenance and accommodation of the said single or double railroad and water navigation. But all real estate entered upon by said corporation, which is not a donation, shall be purchased by the said corporation, of the owner or owners of the same, at a price to be mutually agreed upon between them ; and in case of a disagreement as to price, and before making any portion of said road or water navigation on said land, the said corporation may apply by petition to the vice-chancellor of the fourth circuit, and setting forth therein the necessity of such land for making said road or water navigation, and of the attempt and failure to purchase the same, with the name and residence of the owner, and the reason why the purchase cannot be made ; and the said vice-chancellor, to whom such petition shall be presented, shall direct such notice to the owner or owners of such lands as he shall deem proper and reasonable, of the time and place of hearing the parties ; and upon proof of due service of such notice, and upon hearing the parties, he shall appoint three disinterested freeholders of the county in which such lands are situated, to be commissioners to appraise said lands, and the damages over and above benefits which the owner or owners shall sustain by reason of their appropriations to the use of said company. That said commissioners shall cause notice in writing to be served on said owner, or in case of absence, to be left at his usual place of residence, of the time when they will act in the premises. They shall examine the lands, and may administer oaths and hear testimony, and shall make their appraisal in writing under their hands, with a minute and accurate description of the land appraised, with a map thereof, awarding to the owner thereof what they shall deem to be the full value thereof ; as also the damages, if any, they may otherwise sustain from the making and maintaining of said road or water navigation, and report the same, with the testimony taken, to said vice-chancellor. He shall examine the said report, and if required by either, hear the parties in relation thereto, and increase or diminish the damages if he shall be satisfied that

injustice has been done. The commissioners shall be allowed two dollars each per day for their services. Upon proof to the vice-chancellor, to be made within thirty days after his determination, of payment to the owner, or of depositing to the credit of the owner, in such incorporated moneyed institution as the said vice chancellor shall direct, of the amount of said damages, and payment of all expenses, the vice-chancellor shall make an order or decree, particularly describing the lands and reciting the appraisement of damages and the mode of making it, and all other acts necessary to a compliance with this act; and when the said order or decree shall be recorded in the office of the clerk of the county in which said lands are situated, whose duty it shall be to record the same, receiving the usual fees for recording, the said corporation shall become the owner of all such real estate, and may enter upon and take possession, and use the same for the purposes of said road and water navigation.

§ 8. In case any married woman, infant, idiot or insane person, or non-resident of this State, who shall not appear after such notice, shall be interested in any such land or real estate, the said vice-chancellor shall appoint some competent and disinterested person to appear before the said commissioners, and act for and in behalf of such married woman, infant, idiot, insane person, or non-resident. Provision in case of married women, &c.

§ 9. The said corporation is hereby authorised to construct a single or double railroad, of suitable width and dimensions, to be determined by the said corporation; and also to excavate canals, make locks, make and alter all water courses or bodies of water on the course designated by the directors as aforesaid; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, and shall have power to erect and maintain toll-houses and other necessary buildings for the accommodation of their business. Road and canals, how to be constructed.

§ 10. The said directors shall make and establish such by-laws, rules and regulations as shall from time to time appear necessary for the good government of the said corporation, for their more efficient action, and the preservation and due management of their property, interest and affairs. By laws.

§ 11. Whenever it shall be necessary for the construction of the said railroad to intersect or cross any stream of water or water course, or any road or highway, it shall be lawful for the said corporation to construct their road across or upon the same; but the corporation shall restore the stream or water, or water course, or road or highway thus intersected to its former state, or in a sufficient manner so as not unnecessarily to have impaired its usefulness, and shall erect and maintain sufficient fences upon the sides of the route of their Crossing streams and highways.

said road. And said corporation shall not divert the waters of the River Saranac, or any waters usually running into that river, so as to lessen the usual amount of water annually discharged by the said river, but shall so construct all their works as not to injure or lessen the usefulness of said river for hydraulic purposes below the erections of said corporation.

Tolls.

§ 12. It shall be lawful for the said corporation from time to time to fix, regulate and receive the tolls and charges by them to be received for transportation of property and of persons on said road and water navigation.

Penalty.

§ 13. If any person or persons shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of the said corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation, treble the amount of damages sustained by means of such offence or injury, to be recovered in the name of the said corporation, with costs of suit, by action of debt.

Calls on stockholders.

§ 14. It shall be lawful for the directors to require payment of the sums to be subscribed to the capital stock, at such times and in such proportions, and on such condition, as they shall see fit, under the penalty of the forfeiture of their stock, and of all previous payments thereon; and they shall give notice of the payments thus required, and of the place and time when and where the same are to be paid, at least thirty days previous to the payment of the same, in the paper published in the city of Albany, and in one newspaper in Utica and one in Essex county.

General powers.

§ 15. The said corporation shall possess the general powers and be subject to the general liabilities and restrictions not inconsistent with the provisions herein contained, prescribed by such parts of the eighteenth chapter of the first part of the Revised Statutes, as are not repealed, and are applicable thereto.

Annual report.

§ 16. The directors of said company shall make an annual report in detail of their proceedings and expenditures, verified by the affidavit of at least two of them; which report shall be filed in the office of the Secretary of State, and in like manner shall, at the expiration of each year after the completion of said road and water navigation, either from Boonville to Port-Kent, or from Boonville to Long lake, or from Long lake to Port-Kent, file in the said office a detailed statement of tolls received on such road and water navigation, and the rate of said tolls per mile, and of all moneys

expended by said corporation, for repairs or otherwise for the purposes of said road and water navigation.

§ 17. This act shall continue in force sixty years, but if the Legislature of this State shall, after the expiration of twenty, and within twenty-five years from the completion of said road and water navigation from Boonville to Port Kent, repay to the said corporation the amount expended by them in the construction of said road and water navigation, together with all moneys expended by them for permanent fixtures for the use of said road and water navigation, and cars and steam vessels and boats to run on the same, and also all monies incidentally expended in the purchase of land for said railroad, and otherwise, with interest on all such sums at the rate of ten per cent per annum, together with all moneys expended by said corporation for repairs or otherwise, for the purposes of said road or water navigation, after deducting the amount of tolls received on said road and water navigation, then the said road and water navigation, with all its fixtures and appurtenances, shall vest in and become the property of the people of this State.

§ 18. The said corporation upon being thereto required by the Postmaster-general of the United States, in the usual form and with the usual conditions of such contracts for transporting the mails of the United States upon its railroad and slack water navigation, for the compensation provided by an act of Congress, entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department," approved March 3rd, 1845; and if the said corporation shall neglect or refuse to enter into such contract, within twenty days after being so required, it shall forfeit fifty dollars for every day it shall so neglect or refuse.

§ 19. If consequential damages shall occur by means of the overflowing of lands with water, by reason of the alteration of water courses or bodies of water, any person sustaining such damages, may apply for and have the same appraised under the seventh section of this act in the manner provided therein.

§ 20. The provisions of the act entitled "An act in relation to the contracts of railroad companies," passed May 13, 1845, shall be applicable to the corporation created by this act and the officers thereof.

§ 21. The legislature may at any time, alter or repeal this act.

CHAP. 312.

AN ACT to incorporate the Young Men's Lyceum of the village of Prattsburgh.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation created.

§ 1. The members of the Young Men's Lyceum, of the village of Prattsburgh, and all persons who shall hereafter become members thereof, are hereby created a body corporate, by the name of the Young Men's Lyceum, for the purpose of establishing and maintaining a library, lecture and reading-rooms, literary and scientific lectures and debates, and other means of promoting moral and intellectual improvement, with power for such purposes, to take by purchase or gift, and to hold, transfer and convey real and personal property to the amount of ten thousand dollars; and also, further to take, hold and convey all such books, cabinets, library furniture and apparatus as may be necessary for attaining the objects and carrying into effect the purposes of said corporation.

Affairs, how managed.

§ 2. The control and disposal of the funds, property and estate, and the direction and management of the concerns of said corporation shall be vested in an executive committee, to consist of the president, the vice-president, the corresponding secretary, the recording secretary, the treasurer, the librarian and three managers of said corporation, who shall be elected annually to their respective offices by such of the members of the said Lyceum as are, or may be entitled by the constitution thereof to vote at such elections.

Annual election.

§ 3. The annual election for officers of said corporation shall be held on the first Monday of May in each year, notice of which shall be published in at least two of the newspapers of the village of Bath at least fourteen days previous to such election.

General powers.

§ 4. The said corporation shall possess the powers and be subject to the provisions and liabilities of the eighteenth chapter of the first part of the Revised Statutes.

Right to repeal.

§ 5. This act may at any time hereafter be amended, modified or repealed by the legislature.

§ 6. This act shall take effect immediately.

CHAP. 313.

AN ACT to incorporate the Schenectady and Catskill Railroad Company.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who shall become stockholders pursuant to this act shall be, and they are hereby constituted a body corporate for the term of fifty years, by the name of the "Schenectady and Catskill Railroad Company," for the purpose of constructing and maintaining a railroad from the city of Schenectady to the Hudson river in the village of Catskill, to run on the most practicable route that the directors of said company shall deem most for the public convenience and accommodation ; and to take, transport and convey persons and property upon the same by the power and force of steam, of animals, or any mechanical or other power, or any combination of them. Corporation created.

§ 2. If the said corporation shall not, within two years from the passage of this act, commence the construction of said road, and expend at least twenty-five thousand dollars thereon, and shall not, within four years from the passage of this act, complete said road and put the same in operation, then the said corporation shall thenceforth forever cease, and this act shall be null and void. Time limited.

§ 3. The capital stock of said corporation shall be one million dollars, which shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and may be transferred in such manner as the said corporation, in and by virtue of its by-laws, shall direct. Capital stock

§ 4. Abraham Van Nest and Cornelius Van Sandford of the city of New-York, Sherwood Day and James Powers of Catskill, and Alonzo C. Paige of the city of Schenectady, shall be commissioners to receive subscriptions to the capital stock of the said corporation, and distribute the said stock ; and it shall be their duty, within one year from the passage of this act, at some suitable place in the city of Schenectady, and in such other place or places as they, or a majority of them shall direct, to open books, to receive subscriptions to said capital stock, after giving thirty days' previous notice of the time and place of opening said books, in the state paper, and such newspapers in the counties respectively through which said road is to run, and in the city of New-York and elsewhere, as to them shall seem proper ; and the said commissioners shall proceed in the distribution of said stock in Subscriptions to stock

the manner prescribed for the distribution of stocks, in and by the act entitled "An act to provide for the construction of a railroad from Attica to Buffalo," passed May 3, 1836, and shall possess all the powers conferred upon the commissioners appointed in and by said act.

Real estate
how to be
acquired.

§ 5. This corporation is hereby empowered, by their engineers or agents, to enter upon any land or water for the purpose of making surveys, and may, by their engineers or agents, enter upon, take possession of and use all such lands and real estate as may be necessary for the construction and maintenance of the said railroad and the accommodations required appertaining thereto ; but all real estate thus entered upon, which is not voluntarily granted or given, shall be purchased by the said corporation of the owner or owners of the same, at a price to be mutually agreed upon between them; and in case an agreement cannot be made between the said corporation and the owners of any property which may be required for the said purposes, or which may be affected by any operation connected therewith, the said corporation or any party aggrieved, shall present a petition to the first or other judge of the county courts, or of any court of record in the county in which such lands may lie, setting forth the necessity of taking such land for the purpose of making and maintaining said road, or that such land is affected by some operation connected therewith, and the failure to obtain the same, or adjust the damages by agreement, with the reasons thereof, and the name and residence of each owner, if known to officers or agents of such corporation, and if not known, the fact of such names being unknown, and the means that have been taken to ascertain the same, together with a map, plan or profile of the land thus required to be taken, and of the said road, and praying for the appointment of a jury of appraisers. The said judge shall thereupon direct reasonable notice in writing of not less than fourteen days, to be given to the owner or owners of such lands, of the time of drawing such jury, which shall be at the clerk's office in the county where the lands are situated ; and upon due proof of such notice and hearing, the parties or such of them as may attend and object to the regularity of the proceedings on the part of the said corporation, such judge, together with the clerk of said county, shall draw from the grand jury box of the county, the names of eighteen competent and disinterested jurors, who by an order to be made by such judge, and entered in the common rule book of the court of common pleas, shall be appointed appraisers of the damages to be sustained by such owners ; and should any person or persons so designated, refuse or neglect to serve on such jury, or be disqualified, the vacancy or vacancies shall be filled by the said

judge in manner aforesaid. Such appraisers, before entering upon the duties of their office, shall take the oath prescribed by the sixth article of the constitution. The said judge shall appoint a time and place for said appraisers to meet, and shall cause at least ten days' notice to be given to such owners, if known, by a notice in writing, to be served on such owners, or in case of absence, to be left at their usual place of residence, if within the county, and if not, to be put up in some conspicuous place on the premises to be appraised, and if not known, to be published, as the judge shall deem proper and reasonable, setting forth the time and place of meeting for the purpose of completing said appraisement, and shall also cause due notice to be given to the said appraisers, of the time and place of meeting; and said appraisers, or twelve of them, in case the whole shall not appear, shall at such time proceed to view the premises; they shall have the power to examine witnesses under oath, which oath any one of said appraisers is hereby authorized to administer, and shall without fear, favor or partiality, assess the value of the land taken, and the damages such owners may sustain by the taking of their lands, by injury to buildings, and in the construction of such road, or by any operation connected therewith, without any deduction on account of any real or supposed benefit or advantage which such owners of such lands may derive by the construction of such road. They shall make a certificate or inquisition of their appraisement, specifying the items appraised, which shall be signed by a majority of the appraisers who have viewed the premises and been present at the hearing of the parties as aforesaid, and shall contain a minute and accurate description of the land appraised, with a map thereof, and shall present the same, with the testimony taken, to the county clerk, who shall file them in his office. The ballots drawn from the jury box shall be replaced by the county clerk. Upon proof to the said judge, within thirty days after the filing of the inquisition of the jury, of payment to the owner or owners, or of the depositing to their credit in such bank as the judge shall direct, of the amount of such appraisement, and of all costs and expenses attending it, including reasonable counsel fees, to be taxed and certified by said judge in case such owner shall be a married woman, infant, idiot, insane, non-resident of this state or unknown, or shall refuse to receive such amount with costs, expenses and counsel fees on a tender thereof, the judge shall make an order, particularly describing the land and reciting the appraisement and the mode of making it; which order shall be recorded in the office of the clerk of the county in which the land is situated, or of the register of deeds of the city of New-York, if such land should

be located therein, in like manner as if the same were a deed of conveyance ; and the said corporation shall thereupon become seized in fee of such land, during the continuance of the corporation by this or any subsequent act, and may take, hold and use the same for the purpose of said road, and shall thereupon be discharged from all claims for damages, by reason of any matter in the said petition set forth ; and if at any time after any appraisement of damages under this act or purchase by or donation to the said corporation of any lands, it shall appear that the title acquired to any portion of the ground taken, purchased or granted for the track of said road, or for the use of said corporation shall fail, the said corporation are authorized to proceed anew, in the same manner as above set forth, to perfect the title to the same, by an order to be granted for such purpose by the judge aforesaid ; provided, however, if upon proceeding anew to ascertain the said damages as aforesaid, the said corporation shall give such bond with such security as the said judge shall direct, conditioned for the payment of such damages, when duly ascertained, according to the provisions of this act, the said lands may be appropriated to the use of the said company by an order for that purpose to be granted by said judge, and thereupon the said corporation may enter upon and become possessed of and use the same for the purposes of this act. The compensation of the appraisers shall be determined by the said judge, at a sum not exceeding two dollars per day, in addition to their reasonable disbursements, to be paid by the said corporation. Whenever the verdict of the appraisers shall not exceed the sum tendered by the corporation for the lands proposed to be taken, in such case the corporation shall not be compelled to pay any costs or expenses to the owner of the property appraised, except to such owners as named in the succeeding section.

General
powers.

§ 6. The corporation hereby created shall possess all the powers and privileges which were granted to and made in favor of the corporation created by the act entitled "An act to provide for the construction of a railroad from Attica to Buffalo," passed May 3, 1836, except so far as it conflicts with the previous provisions of this act, and shall be subject to all the conditions and restrictions which, in and by the act aforesaid, are imposed upon the corporation thereby created, except as is hereinafter provided.

Application
to vice-chancellor.

§ 7. Any application to be made to a vice-chancellor under this act shall be made to the vice-chancellor of the circuit in which the land proposed to be taken shall be situated. All notices and meetings required by the act above referred to, shall be published and held in the respective counties through which the railroad hereby authorized is to be made.

§ 8. The said corporation may receive a sum not exceeding three cents per mile for the transportation of any passenger and his ordinary baggage. Rate per mile.

§ 9. The company shall make returns at such period and in such manner as may be directed by the commissioners of the canal fund, of all the goods, chattels and other property transported upon said railroad by virtue of this act, and shall pay to the commissioners of the canal fund, the same tolls per mile, on all the goods, chattels and other property so transported, as would have been paid on them had they been transported, on the Erie canal, to and from the Hudson river. Report to be made of goods transported.

§ 10. The canal board shall have power to prescribe the manner in which such tolls shall be collected, and to enforce the collection and payment of the same: Tolls how collected.

§ 11. The legislature may at any time alter, modify, amend or repeal this act. Right to repeal.

CHAP. 314.

AN ACT for the benefit of the New-York Equitable Insurance Company in the city of New-York.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for the New-York Equitable Insurance Company in the city of New-York, the capital of which has become impaired by losses occasioned by the fire of the nineteenth of July last, within one year from the passage of this act, to make calls upon the stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company ; or at its election to make calls for such amounts as will make the capital of the company good to the amount of two hundred and fifty thousand dollars. Calls on stockholders

§ 2. In case any stockholder of such company shall refuse or neglect to pay such calls after notice personally given, or by advertisement in such time and manner as the vice-chancellor of the first circuit shall approve, it shall be lawful for the said company, to require the return of the original certificates of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company or to the said sum of two hundred and fifty thousand dollars, paying Provision in case of refusal or neglect to pay.

for fractional parts of shares ; and to create new stock, to dispose of the same, and to issue certificates therefor to an amount sufficient to make up the original capital of the company, or to make up the said sum of two hundred and fifty thousand dollars, reducing in proportion to the par value of the shares of such company.

Parts of act
of Feb. 12,
1836, to
apply.

§ 3. The eleventh, thirteenth and fourteenth sections of an act entitled, "An act for the benefit of certain insurance companies in the city of New-York," passed February 12, 1836, shall apply to the said company ; and the statement required by the said thirteenth section shall be verified by the oath of the president or secretary of the said company ; and shall contain among other things, a statement of the amount of the liabilities of the said company, or of the property insured by it ; the amount of unsatisfied debts and claims against it, and the amount of its capital actually paid in and invested over and above any portion thereof that may have been lost or applied to the payment of its liabilities ; and the statement so required shall be published by and at the expense of the said company in a public newspaper, published in the city of New-York, at least twice a week, for four successive weeks commencing within two weeks from the time such statement shall be made to the comptroller ; and immediately after such publication, evidence thereof shall be forwarded by the said company to the comptroller, and be filed in his office.

Amount of
capital stock.

§ 4. Upon filing in the office of the clerk of the city and county of New-York, a certificate signed by the president and secretary of such company, verified by their oath or affirmation, that the said capital stock hath been made good by subscription and payment, or that the capital of the said company hath been made good to the amount of two hundred and fifty thousand dollars, the amount so certified shall be deemed and taken as the capital stock of the said company.

§ 5. This act shall take effect immediately.

CHAP. 315.

AN ACT to amend an act entitled "*An act to incorporate the Great Island Turnpike Company*" passed April 9, 1813.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Chord of
the arch.

§ 1. The three last lines of section five of the act entitled "An act to incorporate the Great Island Turnpike Company" passed April 9, 1813, which read as follows: "Provided however, that the said company hereby incorporated shall be

at liberty to make the chord of the arch of the said road not more than twenty-two, nor less than twenty feet" are hereby amended, so as to read as follows ; Provided however that the chord of the arch of the road hereby authorized to be made, shall not be less than sixteen feet."

§ 2. The toll on said turnpike road shall not exceed ten ^{Toll.} cents for a double carriage, and five cents for a single carriage.

§ 3. The legislature may at any time alter, or repeal this ^{Right to} act. ^{repeal.}

CHAP. 316.

AN ACT to authorize the president and directors of the Seneca Road Company to abandon a part of their road.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The president and directors of the Seneca Road Com- ^{Part of road}pany may, within three months from the passage of this act, ^{may be}and in the manner prescribed thereby, abandon so much of ^{abandoned.} the road of the said corporation as lies westerly of the western bounds of the village of Geneva.

§ 2. Such abandonment shall be by a resolution duly passed ^{Resolution}by the directors of the said corporation, declaring that it ^{to be passed.} thereby abandons so much of its road as lies westerly of the western bounds of the village of Geneva, pursuant to the provisions of this act, and that this act is assented to by the said corporation.

§ 3. The said corporation shall cause a copy of such reso- ^{Copy thereof}lution, duly authenticated under its corporate seal, and by ^{to be filed}the certificate of its president or secretary, to be filed and re- ^{and recorded}corded in the office of the county clerk of Ontario county, and to be served on the supervisor of each of the towns of Seneca, Hopewell and Canandaigua, in the said county.

§ 4. When such resolution shall have been so adopted, and ^{Effect of}a copy thereof so authenticated shall have been filed, recor- ^{such filing}ded and served as aforesaid, all the rights and interests of ^{and record-}the said corporation in that part of its road hereby autho- ^{ing.}rized to be abandoned, and its liability in respect thereto, shall thereupon cease and determine.

§ 5. The tolls shall, after such abandonment, be so ap- ^{Tolls to be}portioned upon the residue of the road of said corporation ^{apportioned.}not abandoned, that no more toll shall be received per mile than is allowed by its act of incorporation.

Restriction.

§ 6. The said corporation shall not erect or keep up any toll-gate within the limits of the village of Geneva.

The part
abandoned
to be a pub-
lic highway.

§ 7. So much of the road of the said corporation as it is authorized by this act to abandon, shall, when so abandoned, be a public highway; and the commissioners of highways of the several towns in which the portion of the said road so authorized to be abandoned lies, shall, when so abandoned, cause the same to be districted and worked in the same manner as other highways in the said towns are required by law to be districted and worked.

§ 8. This act shall take effect immediately.

CHAP. 317.

AN ACT in relation to the sinking fund of the Hudson and Berkshire Railroad Company.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Sinking fund
how to be
applied.

§ 1. It shall be lawful for the Hudson and Berkshire Railroad Company to withhold the payments to the sinking fund of said company, which are required to be made by the sixth section of the act entitled "An act in aid of the Hudson and Berkshire Railroad Company," passed April 28, 1840, on the first days of January in the year one thousand eight hundred and forty-six, and the two following years; provided said company shall appropriate the entire receipts of said road, after paying therefrom the interest on the stock loaned the said company and the necessary expenses of running the same, upon the repairs and improvements that shall be necessary and useful upon the said railroad, and furnish satisfactory evidence thereof to the comptroller within six months from the first day of January, in each of said years.

§ 2. This act shall take effect immediately.

CHAP. 318.

AN ACT to amend an act entitled "*An act in relation to the construction of the New-York and Erie railroad,*" passed May 14, 1845.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "An act in relation to the construc- Amendment
tion of the New-York and Erie railroad," passed May 14, 1845, is hereby amended by striking out the word "one" in the first, and the same word in the eleventh section, where that word occurs in those sections before the word "year," and by inserting in the same sections immediately preceding the word "year" the word "two," and the said act shall have the same effect as if in the said first and eleventh sections thereof the word "two" had been inserted, immediately preceding the word "year" instead of the word "one."

§ 2. The legislature may at any time alter, amend or re- Right to
repeal
peal the same.

§ 3. This act shall take effect immediately.

CHAP. 319.

AN ACT to incorporate the *American Agricultural Association.*

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. All persons who now are, or who may hereafter be- Corporation
created.
come associated for the purposes of this act, are hereby constituted a body corporate, by the name of "The American Agricultural Association," for the purpose of promoting the improvement of agriculture and its kindred arts, by introducing into their practical operation, scientific knowledge.

§ 2. For the purposes aforesaid, the association shall pos- General
powers.
sess the general powers and privileges, and be subject to the general liabilities contained in the third title, of the eighteenth chapter, of the first part of the Revised Statutes, so far as the same may be applicable and have not been modified or repealed ; but the real and personal estate which the said association shall be authorized to take, hold and convey, over and above its laboratory, library and collections, shall

not, at any time, exceed an amount, the clear yearly income of which shall be five thousand dollars.

Officers.

§ 3. The officers of the said association shall be a president, twelve vice-presidents, a treasurer, a recording secretary, a corresponding secretary, and an executive committee, consisting of the president, first and second vice-presidents of the association for the time being, together with seven other members to be chosen for that purpose. These officers shall be elected annually, by ballot, and shall hold their offices respectively for one year, and until others shall be chosen in their places. The present officers and executive committee shall be and continue respectively the officers and executive committee of the said association, until others shall be duly elected in their places, as hereinafter provided.

Annual election.

§ 4. The said association shall hold an annual meeting on the first Monday of February in each and every year hereafter, at which a general election of officers by ballot shall take place. In such election a majority of the ballots given for any officer shall constitute a choice; but if, on the first ballot, no person shall receive such majority, then a further balloting shall take place, in which a plurality of votes given for any officer shall determine the choice.

Vacancies.

§ 5. If a vacancy shall happen in any of the offices, or the executive committee, of the said association, it may be filled by special election, at a regular meeting of the association; and the person so elected to fill a vacancy, shall hold his office for the unexpired term of his immediate predecessor in office, and until another shall be elected in his place.

By laws.

§ 6. The said association, for fixing the terms of admission of its members, for the government of the same, and for the general regulation and management of its transactions and affairs, shall have power to form a code of by-laws not inconsistent with this act, or the laws of the land; which code when so formed and adopted at a regular meeting, shall, until modified or rescinded, be equally binding as this act upon the said association, its officers, and its members.

Right to repeal.

§ 7. The legislature may at any time alter or repeal this act.

§ 8. This act shall take effect immediately.

CHAP. 320.

AN ACT to revive and amend the charter of the Troy Turnpike and Railroad Company.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "An act to incorporate the Troy Turnpike and Railroad Company," passed April 18, 1831, and the several amendments thereto, is hereby revived and extended, and the duration of its charter, to make and construct a single or double railroad or way, as mentioned therein, is continued for the term of ten years from the passage of this act ; and if said single or double railroad or way is not completed within that period, this act, so far as respects said single or double railroad or way, to be null and void. And if said railroad or way is completed within said ten years, said charter, so far as relates to the railroad or way, shall not extend beyond the term of fifty years from the completion thereof.

Act revived.

CHAP. 321.

AN ACT to authorize Robert R. Morris to erect a dam or mound across the Palmer brook, in the town of Westchester in the county of Westchester.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Robert R. Morris, of the town and county of Westchester, and state of New-York, his heirs and assigns, are hereby permitted, authorized and empowered, for his and their own private use and benefit, to erect, construct, and keep across the creek, inlet or brook known as "Palmer's brook," running from Eastchester bay into and surrounded by his lands, in said township and county, at the mouth of said creek, inlet or brook, a dam, dyke or mound, of such height, shape and materials as may be necessary to enclose or dam up the waters of said creek, inlet or brook, and the land covered thereby ; and also to take, hold, enjoy and possess, to his or their own private use and benefit, all the lands and water within the said dam, dyke or mound, for any purpose whatsoever ; provided that the extremities of said dam, dyke or mound, rest upon the said lands of the said Robert

R. R. Morris
may erect
a dam.

R. Morris, and upon the lands of no other person or persons; and provided, also, that the waters so enclosed or dammed up by the said dam, dyke or mound, do not overflow, wet or injure the lands of any person or persons, other than the lands of the said Robert R. Morris; and provided further, that the lands taken to the private use and benefit of the said Robert R. Morris, his heirs or assigns, by virtue thereof, are not bounded in any part or place by the lands of any other person or persons.

CHAP. 322.

AN ACT to amend an act entitled "*An act to incorporate the New-Windsor and Cornwall Turnpike Company,*" passed March 30th, 1809.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Chord of
the arch.

§ 1. The sixteenth, seventeenth and eighteenth lines of section four of the act entitled "An act to incorporate the New-Windsor and Cornwall Turnpike Company," passed March 30th, 1809, which read as follows : "Provided, however, that the chord of the arch of the road hereby authorized to be made shall not be less than twenty feet," is hereby amended so as to read as follows : "Provided, however, that the chord of the arch of the road hereby authorized to be made shall not be less than sixteen feet."

CHAP. 323.

AN ACT relative to the State Library.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Improvements to be
completed.

§ 1. The trustees of the state library are hereby authorized to complete the improvements contemplated by the third section of chapter one hundred and eleven of the laws of eighteen hundred and forty-five, for connecting the two rooms used for the law library, in such manner as they shall deem proper; and the expenses thereof, as audited by them, shall be paid by the treasurer, on the warrant of the comptroller.

§ 2. This act shall take effect immediately.

CHAP. 324.

AN ACT in relation to the Clinton State Prison.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly do enact as follows :

§ 1. Whenever the physician of either of the state prisons in this state shall duly report to the agent thereof that any convict confined therein is insane, it shall be the duty of said agent to cause such insane convict to be removed to the New-York state lunatic asylum, in the county of Oneida, and the officers having charge of said asylum, shall receive such insane convict and retain him therein, at the expense of the state, so long as he shall continue insane. Insane convicts to be removed to asylum.

§ 2. If such insane person shall recover from his insanity before the expiration of the term for which he was sentenced, the agent of the prison shall cause such convict to be returned to such prison. On recovery to be returned.

§ 3. But if said agent shall have reason to believe that said convict was insane at the time he committed the offence for which he was sentenced, the said agent shall, in writing, communicate to the governor the reason for such opinion, and refer the governor to all the sources of information with which said agent may be acquainted, in relation to the insanity of said convict. If insane when convicted, governor to be notified.

§ 4. The agents of the several state prisons in this state, are hereby required to pay, out of any moneys appropriated for the support of their respective prisons, to each convict, on his discharge therefrom, the sum of three cents for each and every mile it may be necessary for such convict to travel in order to reach the place of his conviction, such distance to be estimated by the nearest mail route. Money to be paid to convicts on being discharged.

§ 5. The state prison at Auburn and the state prison at Mount-Pleasant shall have credit on the books of the comptroller for the value of cloth or clothing which have been manufactured, or which shall hereafter be manufactured, in conformity to law for the use of the state prison at Clinton, on making specific returns thereof, verified as to quantity and value by the affidavit of the agent of the prison manufacturing the same ; and shall be paid by the treasurer on the warrant of the comptroller, out of any moneys in the treasury belonging to the general fund not otherwise appropriated, to the order of the inspectors of the state prison entitled thereto, whenever it shall become necessary to pay the expenses of such prison. Prisons to be credited for cloth for the use of Clinton prison.

Appropriation for books.

§ 6. The agent of the Clinton state prison is hereby authorized to draw from the income of the literature fund the sum of three hundred dollars, to be expended in the purchase of books for the use of the convicts in said prison; and the said agent shall, in his next annual report, furnish a catalogue of the books so purchased, with the prices paid for the same.

Id.

§ 7. The agents of the several state prisons in this state are hereby authorized, during each and every year subsequent to the present, to draw from the income of the literature fund the sum of one hundred dollars each, to be expended in the purchase of books for the use of the convicts in the respective prisons.

Salary of assistant keepers.

§ 8. Each of the assistant keepers in the Clinton state prison shall be entitled to receive a salary of five hundred dollars a year, payable monthly.

Repeal.

§ 9. So much of the act to amend "An act in relation to state prisons, passed May 1, 1844," passed April 16, 1845, as relates to the imposition of a tax upon lands adjacent to any road that may be constructed from said prison to the navigable waters of Lake Champlain is hereby repealed.

Appropriation for Clinton prison.

§ 10. Fifty thousand dollars is hereby appropriated for the purposes of supporting the said Clinton state prison, and prosecuting the business therein designated by the laws heretofore enacted in relation thereto; provided that no part of the money appropriated by this act shall be expended in extending the prison building.

§ 11. This act shall take effect immediately.

CHAP. 325.

AN ACT to provide for the reconstruction of certain locks on the Crooked Lake and Chemung canals, and for other purposes.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Locks may be re-constructed.

§ 1. The canal commissioners are authorized to reconstruct such locks on the Crooked Lake canal as they shall judge necessary to insure the safe navigation of said canal, at an expense not exceeding fifty thousand dollars. Also, to reconstruct at an expense not exceeding five thousand dollars, the wooden lock on the Chemung canal in the village of Elmira.

Provision respecting stone and materials at Lockport.

§ 2. The canal commissioners are authorized and required to cause the stone and materials prepared for the second tier of locks at the village of Lockport which encumber the

grounds most wanted for immediate use in the said village, and lay the said stone and material in a proper manner into the said second tier of locks; but no expense exceeding ten thousand shall be made the present year.

§ 3. The canal commissioners are authorized and required, before the opening of the navigation in eighteen hundred and forty-seven, to reduce the bottom level of the Erie canal east of Rochester from the east end of the aqueduct across the Genesee river to the first lock east of said aqueduct, and to lower the mitre sill of said lock so that the said bottom level and mitre sill shall correspond with the bottom level of said aqueduct.

Bottom level of canal east of Rochester to be reduced

§ 4. The sum of five hundred dollars is hereby appropriated to the preservation of the works on the Oneida river improvement, to be paid from any moneys to be raised for the purpose of preserving the works of the unfinished canals.

Works on Oneida river.

§ 5. The canal commissioners are authorized, whenever from improvements in the navigation in said river they shall deem it just, to collect tolls from floats navigating said improvements; and any tolls so collected may be expended in the further improvement of the navigation of said river.

Tolls, when to be collected.

§ 6. The commissioners of the canal fund shall pay, out of any moneys applicable to the repairs of the finished canals, the expense which may be incurred under the first and third sections of this act, and the moneys appropriated by the second section of this act to the Erie canal enlargement and to the Oneida river improvement the appropriation in the fourth section.

Moneys to be paid.

§ 7. This act shall take effect immediately.

CHAP. 326.

AN ACT supplementary to the act passed May 7, 1844, (entitled "An act supplementary to the act) entitled 'An act to provide for paying the debt and preserving the credit of the state,' passed March 29, 1842.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of the canal fund are authorized to borrow a sum not exceeding three hundred thousand dollars, and to issue certificates therefor according to law, bearing an interest payable quarter yearly and the principal redeemable within any period not exceeding eighteen years, and to dispose of said certificates at public or private sale, but at no less rate or proportion than for a six per cent stock.

The sum of \$300,000 may be borrowed

How to be
applied.

§ 2. The money authorized to be borrowed by the preceding section of this act shall be applied to the payment of land damages on the several canals, to the payment of arrearages to contractors and others for work performed previous to the passage of the act chapter one hundred and fourteen of the laws of one thousand eight hundred and forty-two, to the payment of damages awarded to contractors for breaches of their contracts under the act chapter two hundred and nineteen of the laws of one thousand eight hundred and forty-three, and for extra allowances made to contractors, and awards for damages on any of the public works, under the Revised Statutes, or under special laws, and to the payment of engineers.

Provision for
the payment
of the in-
terest.

§ 3. The tolls which by act of chapter three hundred and thirty-five of the laws of eighteen hundred and forty-four, entitled "An act to amend the act incorporating the Utica and Schenectady Railroad Company," are required to be paid on certain freight transported during the suspension of canal navigation on the railroads between Schenectady and Buffalo, after deducting the expenses of the collection of the same, shall be held by the commissioners of the canal fund, exclusively for the payment of the interest and the reimbursement of the principal of the moneys authorized to be borrowed by the first section of this act.

For the pay-
ment of defi-
ciency of
principal and
interest.

§ 4. The surplus revenues of the canals to an amount necessary for that purpose, after the full satisfaction of all charges upon and pledges of the same by any laws heretofore passed, are hereby pledged to the payment of any deficiency of the principal sum borrowed under this act and the interest thereon.

CHAP. 327.

AN ACT to equalize taxation.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Duty of
assessors.

§ 1. It shall be the duty of the assessors of each town and ward, while engaged in ascertaining the taxable property therein, by diligent inquiry, to ascertain the amount of rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, and chargeable upon lands within such town or ward, which rents shall be assessed to the person or persons entitled to receive the same, as personal estate, which it is hereby declared to be, for the purpose of taxation under this act, at a principal sum, the in-

terest of which at the legal rate per annum shall produce a sum equal to such annual rents ; and in case such rents are payable in any other thing except money, the value of such annual rents in money shall be ascertained by the assessors, and the same shall be assessed in manner aforesaid.

§ 2. The board of supervisors in each county shall assess the taxes to be raised for town, county, and state purposes, upon the person or persons entitled to receive such rents within the town or ward where the lands upon which such rents are reserved and situated, in the same manner and to the same extent as any personal estate of the inhabitants of such town. Duty of boards of supervisors.

§ 3. If such tax shall not be paid, the collector shall levy the same by distress and sale of the goods and chattels of the person against whom the same is assessed, within the town or ward of such collector in the same manner as if such person was an inhabitant of such town or ward. Tax may be levied by distress.

§ 4. When it shall appear by the return of any collector made according to law, to a county treasurer, that any tax imposed under the provisions of this act, remains unpaid, such county treasurer shall issue his warrant to the sheriff of any county where any real or personal estate of the person upon whom such tax is imposed may be found, commanding him to make of the goods and chattels and real estate of such person the amount of such tax, together with one dollar for the expense of issuing such warrant, and to return the said warrant to the treasurer issuing the same, and to pay to him the money which shall be collected by virtue thereof by a certain time therein to be specified, not less than sixty days from the date of such warrant. Duty of county treasurer.

§ 5. Such warrant shall be a lien upon and shall bind the real and personal estate of the person against whom the same shall be issued from the time an actual levy shall be made by virtue thereof ; and the sheriff to whom such warrant shall be directed, shall proceed upon the same in all respects with the like effect, and in the same manner as prescribed by law, in respect to executions against property issued by a county clerk upon judgments rendered by a justice of the peace, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner. Warrant to be a lien on real and personal estate.

§ 6. In case of the neglect of any sheriff to return such warrant according to the directions therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court by attachment, in the same manner, and with the like effect, as for similar neglects in reference to an execution issued out of the supreme court in a civil suit, and the proceedings thereon shall be the same in all respects. Sheriff to be proceeded against in case of neglect.

Provision in
case of war-
rant being
returned
unsatisfied.

§ 7. If any such warrant shall be returned unsatisfied in whole or in part, the county treasurer, under the direction of the board of supervisors of his county, may file a bill in his name of office in the court of chancery, whatever may be the amount so remaining unsatisfied against the person against whom such warrant was issued, and any other person having the possession of his property, for the discovery and sequestration of such property. And on the filing of such bill, the court of chancery shall order such part of the property of the person upon whom the tax specified in the said warrant was, imposed as shall be necessary for the purpose of satisfying the taxes in arrear and imposed as aforesaid, with the cost of prosecution, to be sequestered, and may order and direct such other proceedings as may be necessary to compel the payment of such tax and costs.

CHAP. 328.

AN ACT for the arrangement of Senate Districts.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The senate districts of this state shall be arranged as follows, to wit:

- First district.** The first senate district shall consist of the city and county of New-York and the county of Richmond;
- Second district.** The second senate district shall consist of the counties of Kings, Queens, Suffolk, Westchester, Rockland, Putnam, Dutchess, Orange and Sullivan;
- Third district.** The third senate district shall consist of the counties of Columbia, Greene, Albany, Rensselaer, Schoharie, Delaware and Ulster;
- Fourth district.** The fourth senate district shall consist of the counties of Saratoga, Washington, Warren, Essex, Clinton, Franklin, St. Lawrence, Fulton, Hamilton, Montgomery, Herkimer and Schenectady;
- Fifth district.** The fifth senate district shall consist of the counties of Jefferson, Lewis, Oswego, Oneida, Madison and Otsego;
- Sixth district.** The sixth senate district shall consist of the counties of Chenango, Broome, Tompkins, Chemung, Tioga, Steuben, Allegany, Cattaraugus and Livingston.
- Seventh district.** The seventh senate district shall consist of the counties of Onondaga, Cayuga, Seneca, Yates, Ontario, Wayne, and Cortland;
- Eighth district.** The eighth senate district shall consist of the counties of Chautauque, Erie, Genesee, Wyoming, Monroe, Orleans and Niagara.

§ 2. The several circuits of this state shall correspond with and be the same as the senate districts, as the same are arranged and established by this act, and the circuit judges of the respective circuits are hereby authorized and directed to make such alterations in the times of holding their respective circuits and of the terms of their respective equity courts, and courts for hearing motions in suits at law, as shall be necessary and convenient to enable them to perform their duties respectively ; but each of the said circuit judges shall proceed to hear and determine the cases in equity and the motions in suits at law now pending in their respective courts, in the same manner and with the like effect as they would have done if this act had not been passed, or they may make among themselves such arrangements in regard to the disposition of such cases and motions as they may deem proper. The county of Livingston in respect to equity jurisdiction, shall be deemed to constitute a part of the eighth circuit.

The several circuits to correspond with the senate districts.

Livingston county.

CHAP. 329.

AN ACT further to amend an act entitled "*An act to incorporate the Greenwood Cemetery,*" passed April 18, 1838.

Passed May 11, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The Greenwood cemetery may acquire, take and hold land within the city of Brooklyn or in the town of Flatbush in the county of Kings next adjoining thereto, not exceeding one hundred and twenty-five acres, in addition to the land which the said corporation is now authorized by the third section of the act entitled "*An act to incorporate the Greenwood Cemetery,*" passed April 18, 1838, to acquire take and hold; and may hold, use, sell or otherwise dispose of the same in the same manner, with the same privileges, and for the uses and purposes contemplated by the said act.

Cemetery may acquire more land.

§ 2. This act shall take effect immediately.

CHAP. 330.

AN ACT to amend "*An act to incorporate the Trustees and Associates of the Brooklyn Benevolent Society,*" passed May 10, 1845.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

§ 1. The real and personal estate which the trustees and associates of the Brooklyn Benevolent Society shall hold by

Property exempted from taxation.

their act of incorporation, shall be and remain free and exempt from all taxation whatsoever so long as the revenues thereof shall be disposed of according to the directions of said act ; but such exemption shall not extend to assessments laid upon said real estate for purposes of local improvement.

§ 2. This act shall take effect immediately.

CHAP. 331.

AN ACT to incorporate the Domestic and Foreign Missionary Society of the Protestant Episcopal Church of the United States of America.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York represented in Senate and Assembly, do enact as follows :

Corporation
created

§ 1. All such persons as now are, or may hereafter become members of "The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America," originally instituted in the year eighteen hundred and twenty ; and fully organized by the general convention of the said church, in the year eighteen hundred and thirty-five, shall be and are hereby constituted a body corporate, for the purpose of conducting general missionary operations in all lands, by the name aforesaid.

Income of
society.

§ 2. The nett income of said society, arising from their real estate, shall not exceed the sum of two thousand dollars annually ; nor shall the said society hold any real estate, excepting what may be requisite for a site and buildings necessary for the transaction of its business.

Annual re-
port.

§ 3. The said society shall, in its usual annual printed report, state the amount of its real and personal estate, and the income arising therefrom : a copy of which report shall be deposited in the State library.

General
powers.

§ 4. This corporation shall possess the general powers, and be subject to the provisions contained in title third of chapter eighteen of the first part of the Revised Statutes, so far as the same are applicable and have not been repealed.

Right to
repeal.

§ 5. This act shall take effect immediately, and the Legislature may at any time alter, modify or repeal the same.

CHAP. 332.

AN ACT to revive and continue in force the charter of the Butchers Benevolent Society in the city of New-York.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "An act to incorporate the Butchers' Benevolent Society in the city of New-York" passed April 18, 1831, is hereby revived and continued in force for the term of fifteen years. Act revived.

§ 2. The corporation hereby revived and continued in force, shall possess the general powers and be subject to the general restrictions and liabilities contained in the third title of the eighteenth chapter of the first part of the Revised Statutes. General powers.

§ 3. The legislature may at any time alter or repeal this act. Right to repeal.

§ 4. This act shall take effect immediately.

CHAP. 333.

AN ACT to incorporate the Young Men's Association for Mutual Improvement, in the village of Fulton.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The members of the Young Men's Association for mutual improvement, in the village of Fulton, in the county of Oswego, and all persons who shall hereafter be associated with them, are hereby created a body corporate, by the name of "The Young Men's Association for Mutual Improvement in the village of Fulton," for the purpose of establishing and maintaining a library, reading-rooms, literary and scientific lectures, and other means of promoting moral and intellectual improvement, with power for such purposes to take by purchase, or otherwise, except by devise, and to hold, transfer and convey real and personal property to the amount of twenty thousand dollars; and also further to take, hold and convey all such books, cabinets, library, furniture and apparatus, as may be necessary for attaining the objects and carrying into effect the purposes of said corporation. Corporation created.

§ 2. The control and disposal of the funds, property and estate, and the direction and management of the concerns of As to how to be managed.

the said corporation shall be vested in an executive committee, to consist of the president, the first, second and third vice-presidents, the corresponding secretary, recording secretary, the treasurer and five managers, who shall be elected annually to their respective offices, by such of the members of the said association as are or may be entitled by the by-laws now made, or to be made, to vote at such elections.

Officers of
debating so-
ciety.

§ 3. In addition to the officers mentioned in the second section of this act, the several officers of the debating society now organized by the said association, shall, so long as the said corporation shall see fit to continue the said debating society as a department thereof, and no longer, be *ex-officio* members of the said executive committee, with the like powers, privileges and duties as the other members thereof.

Present offi-
cers to hold
until others
are elected.

§ 4. The several officers of the said association, at the time of the passage of this act, shall continue to hold their respective offices as officers of the corporation hereby created, until the next annual election, unless in case of a vacancy previously occurring, by death, resignation, or otherwise; and all personal property or funds, or securities now held by the said officers, or any or either of them, or any other person or persons, in trust for the said association, or for the use or benefit of the same, including choses in action, which by the terms thereof are payable to either or any of the said officers, or to any other person or persons, in trust for the said association, shall, by virtue of this act, vest in and become the property of, and may be sued for and recovered in the name of the corporation hereby created; and the said corporation shall assume and be liable for all contracts, agreements and responsibilities which have been entered into or incurred previous to the passage of this act, by the officers of the said association, or any of them, lawfully acting in behalf of the said association.

Annual elec-
tion.

§ 5. The annual election for officers of the said corporation shall be held on the second Monday of February in each year, or on such other day as the said corporation in and by its by-laws may appoint.

Vacancies.

§ 6. The executive committee shall have power to fill all vacancies which may occur in any of the offices of the said corporation, and to appoint and at pleasure remove such other officers, agents, or servants, as the business or interests of the said corporation may, in their opinion, require.

By laws.

§ 7. The said executive committee and their successors in office shall have power, and are hereby authorized, to make and publish such prudential rules, regulations and by-laws as they from time to time shall deem meet and proper for the improvement, policy, good government or well being of the said corporation, and particularly to enforce and carry into effect any rule, regulation or proceeding adopted by said cor-

poration ; and said committee are hereby authorized and empowered to impose and inflict such penalty as they shall deem just and proper, not exceeding five dollars for any one offence against any rule, order, regulation or by-law of the said corporation, recoverable in the name of the said association, with costs in an action of debt, in any court having cognizance thereof, in which action the first process may be by summons or warrant, at the option of the party applying therefor.

§ 8. The estate, property and funds of the said corporation shall be devoted solely to the general purposes and objects specified in the first section of this act ; and the real estate of the said corporation shall be subject to taxation in the same manner that real estate is that is held or owned by individuals. Funds how devoted.

§ 9. The said corporation shall possess the powers and be subject to the provisions and liabilities of title third of chapter eighteen of part first of the Revised Statutes.

§ 10. This act shall take effect immediately after its passage. General powers.

CHAP. 334.

AN ACT to amend the act entitled "*An act to incorporate the Lackawack and Neversink Turnpike Company,*" passed May 7th, 1844.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The eighth section of the act entitled "*An act to incorporate the Lackawack and Neversink Turnpike Company,*" passed May 7th, 1844, is hereby amended by striking out the words "Neal Benson, in the town of Neversink, in Sullivan county," and inserting the words "Daniel Oosterhoudt, deceased, late of the town of Wawarsing, in Ulster county," in lieu thereof. Amendment

§ 2. The corporation created by said act, shall not become forfeited under the provisions of the fifteenth section of the first title of the eighteenth chapter of the first part of the Revised Statutes, provided they shall commence the construction of the road described in said act of incorporation within one year from the passage of this act. Saving clause.

CHAP. 335.

AN ACT to incorporate the New-York and Offing Magnetic Telegraph Association.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Corporation
created.

§ 1. Samuel Colt, William Robinson and their associates shall be and are hereby created a body corporate, by the name of "The New-York and Offing Magnetic Telegraph Association," for the purpose of constructing lines of telegraph from New-York city to such points to and from the offing and seaboard, as may be deemed expedient for commercial purposes, and saving of human life, and to construct station houses and observatories, building and using life, surf and other boats suited to navigating and assisting in stormy weather, in boarding vessels in distress, and in preserving life and property in marine disasters.

Capital stock

§ 2. The capital stock of this association shall be one hundred thousand dollars, to be divided into shares of twenty dollars each, and the association may commence business as a corporate body, whenever twenty-five thousand dollars shall have been subscribed and paid, or secured to be paid. The association may continue to receive subscriptions until the whole amount of said stock shall be subscribed.

Subscrip-
tions to stock.

§ 3. Samuel Colt, William Robinson and George W. Pome-roy are hereby appointed commissioners to dispose of the said stock. They shall open books of subscription as soon as possible after the passage of this act, giving two weeks' notice thereof by public advertisement in at least two of the daily papers published in said city. The books shall be kept open until twenty-five thousand dollars of said stock shall be subscribed; thereupon an election for directors of the association shall be called by the commissioners above named, which election shall be determined by a majority of the votes polled. Each stockholder shall be entitled to one vote for each and every share of stock he may hold, and may vote either in person or by proxy.

Powers of
directors.

§ 4. The board of directors shall consist of five persons being shareholders, who shall have power to elect a president and appoint such agents as may be deemed necessary. They shall have power to fill vacancies and to make by-laws for the regulation of the affairs and interests of the association. The directors shall be elected annually after the first Monday in May, one thousand eight hundred and forty-seven, and hold

their offices until others are elected, in the manner specified in the third section of this act.

§ 5. It shall be lawful for the directors to require such payments or instalments on the subscription to the stock subscribed as they may direct, and in such sums and at such times as they may see fit. The place and times of such payments or instalments to be advertised the same as for notice of an election, and any shareholder not paying in accordance therewith, within thirty days of the time appointed, shall forfeit any amount he may have paid, and his said shares shall be cancelled on the books of the association, and be resold.

Calls may be made on stockholders.

§ 6. Robert H. Morris, Samuel Colt, George S. Gelston, Adam G. Ransom and William Robinson shall be the first directors, and hold their offices until the first Monday in May, one thousand eight hundred and forty-seven, and until others are chosen in their places.

First directors.

§ 7. The stockholders of the said company are hereby declared to be liable in their individual capacity for all the debts due to operatives, who may be in the employ of said company, and also in their individual capacity to all creditors of said company, for an equal amount to the stock they severally hold in the said company, over and above said stock to be recovered of the stockholder, who is such when the debt is contracted, or of any subsequent stockholder; but each subsequent stockholder shall be liable to repay to any previous holder of his stock any amount which may have been collected of, or paid by such previous holder under the provisions of this section; but no suit shall be brought against the stockholders individually, until an execution against the said company shall have been returned unsatisfied in whole or in part.

Liabilities of stockholders.

§ 8. The legislature may at any time alter, amend or repeal this act.

Right to repeal.

CHAP. 336.

AN ACT to incorporate the Albany Gallery of the Fine Arts.

Passed May 13, 1846, by a two-third vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Erastus Corning, Edward Satterlee, Herman Wendell, Watts Sherman, John McD. McIntyre, William W. Forsyth, David Newcomb and Orlando Meads, and such other persons as are, or may be associated with them as members of the association for the establishment of a Gallery of the Fine Arts in the city of Albany, are hereby constituted a body corporate under the name and style of "The Albany Gallery of the Fine Arts."

Corporation created.

Objects of
corporation.

§2. The object of the corporation hereby created, is to establish in the said city a gallery of paintings, statuary, and other works of art.

Property.

§3. The property of the said corporation shall consist of such works of art as the said corporation may acquire, and of such other personal property as shall be necessary or convenient for the exhibition and preservation of the same ; and of such real estate as the said corporation shall acquire, the annual income of which shall not exceed three thousand dollars.

Affairs, how
managed.

§4. The property and affairs of the said corporation shall be managed by a board of nine trustees, to be elected on the first Monday of January in each year, by the members of the said corporation ; and the persons named in the first section shall be the first trustees of the said corporation.

Powers of
trustees.

§5. The trustees shall have power to adopt a constitution and to prescribe the terms and conditions of membership, to appoint from their own number the requisite officers and committees, and prescribe their powers, duties and terms of office; to make by-laws for the preservation, increase and exhibition of the Gallery, and for the expulsion or suspension of any member who shall violate the constitution, or any by-law; to procure by gift or purchase such real and personal property as the said corporation is by this act authorized to acquire, but not to exceed in value the sum of fifty thousand dollars ; and in general to manage all the affairs of the said corporation.

May borrow
pictures, &c.

§6. The trustees shall have power to borrow pictures, statuary or other works of art for the purpose of exhibition in the said gallery, but shall not otherwise incur debts or liabilities on the part of the said corporation, to an amount at any time exceeding the amount of the annual dues of its members.

Members.

§7. The members of the said association, known by the name of the Albany Gallery of the Fine Arts, shall, upon the acceptance by the said association of this act, be deemed members of this corporation.

General
powers.

§8. The said corporation shall possess the general powers and be subject to the restrictions and liabilities prescribed in the third title of the eighteenth chapter of the first part of the Revised Statutes.

§9. This act shall take effect immediately.

CHAP. 337.

AN ACT to provide for the payment of certain expenses of government.

Passed May 13, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The treasurer shall pay on the warrant of the comp- Payments.
troller, out of any moneys in the treasury not otherwise ap-
propriated, the following sums of money, viz :

To each of the deputy clerks of the assembly, not ex- To deputy
ceeding three in number, the sum of four hundred and fifty clerks of
dollars in full compensation for their services and of all assembly.
charges for extra engrossing.

To Abner N. Beardsley, librarian in the clerk's room of To A. N.
the assembly, the same compensation for each day's attend- Beardsley.
ance as is allowed by law to members of assembly, and the
same mileage, to be certified in the same manner.

To Samuel S. Wood, sergeant-at-arms, a sum in addition To S. S.
to what he has already received, which will make his com- Wood.
pensation equal to the per diem and mileage allowed to
members of the assembly, to be certified in the same manner,
also four dollars and fifty cents, for money paid out by him.

To Horatio G. Pope, door-keeper, and Israel R. Neahr To H. G.
and Francis Bradt, assistants, a sum in addition to what Pope.
already received, will make their compensation equal to the
per diem and mileage allowed to members of the legislature,
to be certified in the same manner.

There shall be paid to the Rev. I. N. Wyckoff, for the be- To I. N.
nefit of the clergymen officiating as chaplains to the legisla- Wyckoff, for
ture, the sum of six dollars for each day of the present chaplains.
session, to be certified in the same manner.

To Hiram Allen the sum of two dollars per day, for ser- To H. Allen.
vices in the room of the sergeant-at-arms of the assembly to
be certified in the same manner.

To David St John, superintendent of the capitol, for his To. D. St.
services in taking care of the same, and the public grounds John.
around it from the first day of January one thousand eight
hundred and forty-six, to the first day of January one thousand
eight hundred and forty-seven, one dollar per day : to the
same for sweeping the capitol, making fires and lighting
lamps, during the present session of the legislature, one-hun-
dred and ninety dollars and fifty cents.

To the same for sweeping the halls, making fires and light-
ing the lamps, during the sessions of the court for the cor-
rection of errors during the year one thousand eight hundred
and forty-five, eighty dollars ; to the same for money paid

out by him for shovelling snow and ice, and cleaning the walks outside the public grounds at the capitol, the sum of eighty-four dollars and twenty-five cents.

To W. W. Dean and others, for mileage.

To William W. Dean, Ira P. Barnes, William H. Grant and John J. Roof, officers of the assembly, fifteen cents for every mile for their travel from their residences in coming to the legislature and returning therefrom.

To C. Hays, J. Gray and F. Maben.

To Catharine Hays, Jane Gray and Parmelia Maben, for services in cleaning the assembly chamber and hall of the capitol, the sum of one dollar and twenty-five cents per day, during the session each.

To J. Osborn and J. Zoller.

To John Osborn and Jonas Zoller, doorkeepers to the galleries of the assembly, the same pay, but without mileage, to each, as is by law allowed to members of the assembly, to be certified in the same manner.

To W. C. Lockerty.

To William C. Lockerty, two dollars per day for each day of the session of the legislature of eighteen hundred and forty-six, in full compensation for his services in making fires and hoisting the flag on the capitol.

To H. R. Howlett.

To Heman R. Howlett, assistant librarian, the same pay, but without mileage, as is by law allowed to members of the assembly to be certified in the same manner.

To M. St. John.

To Mary St. John, for services in cleaning and taking care of the executive chamber during the session of the legislature of eighteen hundred and forty-six, the sum of twenty-seven dollars, to be paid in like manner.

To H. N. Rogers and D. W. Talcott.

To Howard N. Rogers and Daniel W. Talcott, jun., each the sum of one dollar and fifty cents per day, for their services as messengers to the assembly, and to each other messenger the sum of one dollar per day, to be certified by the speaker.

To H. N. Rogers.

To Howard N. Rogers, the sum of eighty-one dollars, for loss sustained by him in collecting and disbursing moneys for members during the session of the legislature of eighteen hundred and forty-five.

To D. St. John, 2d.

To David St. John, 2d, two dollars per day for each day of the session of the legislature of eighteen hundred and forty-six, in full compensation for his services in making fires in the capitol, and also the sum of forty-six dollars in addition for services rendered previous to the session in the same capacity.

To L. I. Tefft and J. I. Bush.

To Lake I. Tefft and John I. Bush, each, his expenses as members of the railroad committee in investigating charges against certain railroad companies.

To W. H. Peck.

To William H. Peck, late agent of the Mount-Pleasant state prison, the sum of one hundred and thirty-nine dollars and thirty-nine cents, for moneys paid by him for the benefit of said prison.

To Bowen Whiting, circuit judge of the seventh circuit, the sum of twenty-seven dollars and fifty cents, for making and transmitting to the senate a report of the testimony taken on the trial of Henry Wyatt. To B. Whiting.

To Calovert Comstock, the sum of two hundred and thirteen dollars and sixty cents, for services and mileage as a member of the committee from the assembly on the quarantine laws ; also the sum of three hundred and six dollars and sixty cents to R. H. Hine, and the sum of three hundred and sixty-two dollars and sixty cents to David E. Wheeler, for similar services. To C. Comstock, R. H. Hine and D. E. Wheeler.

To the regents of the university, the sum of five hundred dollars, to be used by them for the purpose of meeting and defraying the expenses incident to the interchange of statistical, scientific and other valuable books and documents, between this state and foreign countries, and between this state and the other states of the Union. To Regents of the University.

To C. Van Benthuyssen & Co., the sum of three hundred and eighty-three dollars and fifty cents, for furnishing the legislature of eighteen hundred and forty-six with the red-book and printing the same. To C. Van Benthuyssen & Co.

To Joseph L. Harris, the sum of eight dollars, for drawing bill and services rendered as surveyor at the Clinton county prison. To J. L. Harris.

To J. Washington Taylor, the sum of one hundred and forty-five dollars and eighty-three cents, for extra services as curator of the state geological rooms. To J. W. Taylor.

To Henry Storms, commissary-general, the sum of two hundred and twenty dollars and twenty-five cents, for extra services in the years eighteen hundred and forty-four, eighteen hundred and forty-five and eighteen hundred and forty-six. To H. Storms

To N. S. Benton, secretary of state, one hundred and twelve dollars and fifty cents, to be appropriated by him in paying for the census map procured by him under the authority of a joint resolution of the last legislature. To N. S. Benton.

To John Meigs, the sum of one hundred dollars, for superintending the repairs of the supreme court room ; to H. T. Meech, thirty-four dollars, for oil cloth for supreme court room ; and to P. M. Morange, the sum of thirty-seven dollars and eighty-two cents, for articles furnished for supreme court room ; to D. F. Holdridge, the sum of one hundred and fifty-one dollars and seventy-six cents, for sundry articles furnished for repairing supreme court room ; to Peter Sager, the sum of three dollars and eighty-two cents, for articles for the use of the supreme court room. To J. Meigs, H. T. Meech, P. M. Morange and D. F. Holdridge.

To Abraham Keyser, the sum of four hundred and seventy eight dollars and thirty-eight cents, as extra compensation for services in canal department. To A. Keyser

To B. Enos. To Benjamin Enos, late treasurer, the seventy dollars and seven cents, as compensation for attending with the committee from the legislature to examine his accounts.

To A. Donaldson. To Alexander Donaldson, jun., for extra services in the adjutant-general's office, the sum of fifty-five dollars.

To L. McPherson. To Lachlan McPherson, the sum of seventy-one dollars and fifty cents, for services rendered in the state geological rooms.

To S. Wilson. To Stephen Wilson, for services as curator in the state geological rooms, the sum of fifty dollars.

To J. L. Tillinghast. To J. L. Tillinghast, two hundred dollars for making index to the state library.

To H. R. Schoolcraft. To Henry R. Schoolcraft, two hundred and fifty dollars, for services in taking the census of the Indians of this state.

To Sec'y of State. § 2. The secretary of state is required to purchase one hundred copies of the third edition of the Revised Statutes, to be placed in the senate and assembly library rooms.

To the trustees of the capitol. § 3. The trustees of the capitol shall have power, from time to time, to cause all such repairs and improvements to be made to the capitol and the furniture therein, as shall be necessary to preserve it from decay, and keep the same in a safe and proper condition for public use ; to cause the furniture in any of the apartments to be replaced as they shall deem it necessary ; to cause the said apartments to be cleansed as often as they shall deem it expedient ; to cause all necessary improvements and repairs to be made in the public grounds connected therewith, and to the fences around the same ; to direct the walks in and around such grounds to be kept free from snow and ice, and the walks and streets adjacent to be swept and taken care of, according to the ordinances of the common council of the city of Albany, the expense whereof shall be paid out of the treasury on the warrant of the comptroller.

To trustees of New State Hall. § 4. The trustees of the new state hall are hereby authorized, if they shall deem it expedient, to cause trees to be planted on the sidewalks adjacent thereto, the expense whereof shall be paid by the treasurer on the warrant of the comptroller.

To committee for investigating expenditures of moneys on canals. § 5. The comptroller shall draw his warrant for the payment of such sum as may become due to each member of the select committee of the present assembly, raised for the purpose of investigating the expenditures of moneys on the canals of this state, upon the receipt by him of a certificate of the chairman of the said committee setting forth the number of days for which the member in whose favor it shall be given shall be entitled to payment, and the estimated distance of the actual travel performed by such member in the performance of his duties as a member of said committee.

§ 6. There shall be paid on the warrant of the comptroller, out of any moneys not otherwise appropriated, to each of the deputy clerks of the senate, not exceeding two in number, the sum of four hundred and fifty dollars in full compensation for their services and of all charges for extra engrossing.

To Deputy clerks of the Senate.

To Ann Van Bramer, for services in the care of the senate chamber and hall of the capitol for one hundred and twenty-eight days' services, the sum of one dollar and twenty-five cents per day.

To A. Van Bramer.

To Isaac R. Elwood, Hiram Leonard, John P. Lott and Jared S. Halsey, officers of the senate, fifteen cents for every mile for their travel from their residences in coming to the legislature and returning therefrom.

To I. R. Elwood, H. Leonard, J. P. Lott and J. S. Halsey.

To Martin Miller, the assistant doorkeeper of the senate, the sum of three dollars per day for each day's attendance during the session of the legislature.

To M. Miller.

To the sergeant-at-arms of the court for the correction of errors the sum of three dollars per day for the time to be necessarily spent in preparing for the meeting of said court, and in services after its adjournment, which time shall be certified by the president of said court.

To sergeant-at-arms of court of errors.

To Burgess Wands, the sum of twenty dollars, for his services in attending upon the committee of the senate to examine into certain charges against the superintendent of the northern section of the Champlain canal and Glens-Falls feeder.

To B. Wands

To Joseph Courtney, junior, and John H. Finnegan, for their attendance as messengers upon the court for the correction of errors, one dollar and fifty cents each per day, and also seven and one half cents for every mile travel from their residences in going and returning from said court.

To J. Courtney, Jr., and J. H. Finnegan.

To the person who shall serve as porter, for his attendance at the court for the correction of errors, the sum of three dollars for each day's attendance, and also fifteen cents a mile for his travel from his residence in going to and returning from said court.

To porter of court of errors.

To the sergeant-at-arms of the senate, for his travel and expenses in subpoenaing witnesses to attend the committee of the senate in investigating certain charges against the superintendent of the northern section of the Champlain canal and Glens-Falls feeder, the sum of forty-two dollars and fifty cents; to the same for superintending the cleaning out of the senate chamber, collecting the books belonging to the senate library, arranging the same and the senate bills and documents, &c., the sum of three dollars per day for six days' services.

To sergeant-at-arms of Senate.

To D. F. Holdridge, one hundred and ninety dollars and seventy-three cents, for work in and about the state library.

To S.H. Stafford.
To Spencer H. Stafford, one hundred and twenty-five dollars, in full for his salary from the tenth day of February eighteen hundred and forty-five, to May fourteenth eighteen hundred and forty-six.

§ 7. This act shall take effect immediately.

CONCURRENT RESOLUTIONS
OF THE
SENATE AND ASSEMBLY.

STATE OF NEW-YORK.

In Senate, January 16, 1846.

Resolved, (if the assembly concur,) That the geologist now engaged in preparing the reports on the agriculture and paleontology of the state, be allowed to take such books from the state library as are necessary for reference in preparing such reports, subject to the same restrictions, relative thereto as members of the legislature now are, and under such restrictions as may be deemed proper by the trustees of the library.

By order of the Senate.

A. GARDINER, *President*.

ISAAC R. ELWOOD, *Clerk*.

STATE OF NEW-YORK.

In Assembly, January 16, 1846.

Resolved, That the Assembly do concur in the above resolution.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.

WILLIAM W. DEAN, *Clerk*.

STATE OF NEW-YORK.

In Assembly, February 14, 1846.

Resolved, (if the senate concur) That the secretary of state be requested to procure one hundred and fifty copies of the census map of this state, at a price not exceeding seventy-five cents each, for the use of the members of the convention of this state.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.

WILLIAM W. DEAN, *Clerk*.

CONCURRENT RESOLUTIONS.

STATE OF NEW-YORK.

In Senate, February 14, 1846.

- *Resolved*, That the senate do concur in the above resolution.

By order of the Senate.

A. GARDINER, *President*.ISAAC R. ELWOOD, *Clerk*.

STATE OF NEW-YORK.

In Assembly, March 10, 1846.

Resolved, (if the senate concur,) That it be recommended to the senators and representatives of the state of New-York, in the congress of the United States, to use their best efforts to procure the passage of a law, during the present session of congress, that will regulate and establish the pilot system of the United States upon equitable and proper principles, securing to the citizens of each state their just rights, and also proper competition in the business of piloting and establishing in each state a board for the examination of all pilots before they shall be permitted to enter upon the duties of so important an office, requiring similar qualifications in all pilots.

Resolved, (if the senate concur,) That in case so desirable an object cannot be effected, that they endeavor to procure the passage of a law giving to each state the power to pass laws for the appointment and regulation of the pilots for themselves.

Resolved, (if the senate concur,) That the governor be requested to transmit a copy of the above resolutions to each of the senators and representatives in congress from this state.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.WILLIAM W. DEAN, *Clerk*.

STATE OF NEW-YORK.

In Senate, April 22, 1846.

Resolved, That the senate do concur with the assembly in the foregoing resolutions.

By order of the Senate.

A. GARDINER, *President*.ISAAC R. ELWOOD, *Clerk*.

STATE OF NEW-YORK.

In Senate, March 17, 1846.

Resolved, (if the assembly concur,) That the trustees of the state library be requested under the authority vested in them by section four of chapter two hundred and fifty-five, of the laws of eighteen hundred and forty-four; to procure the several library rooms to be carpeted in a suitable manner, and at such time as the same may most conveniently be done.

By order of the Senate.

A. GARDINER, *President*.

ISAAC R. ELWOOD, *Clerk*,

STATE OF NEW-YORK.

In Assembly, March 18, 1846.

Resolved, That the assembly do concur in the above resolution.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.

WILLIAM W. DEAN, *Clerk*.

STATE OF NEW-YORK.

In Assembly, April 14, 1846.

Whereas, the constitution of the United States reposes the power to organize, arm and discipline the militia of the United States in congress alone : And whereas, the laws passed by that body more than fifty years since, to accomplish and carry out the design of the framers of the constitution in this respect, are not suited to the present wants or condition of the country, and are extremely defective : Therefore

Resolved, (if the senate concur,) That our senators in congress be instructed, and our representatives requested, to further the immediate passage of a law providing for re-organizing, arming and disciplining the militia of the United States in such manner as shall be most likely to establish and sustain an efficient militia.

Resolved, (if the senate concur,) That in the opinion of this legislature, such a law should provide for classifying the militia according to age ; for decreasing materially the number who shall be compelled to perform military service, and for arming the militia.

Resolved, (if the senate concur,) That the citizen soldier should receive a fair compensation for his time and expenses in attending the drills and inspections of the militia.

Resolved, (if the senate concur,) That the governor be requested to forward a copy of these resolutions, to the presi-

CONCURRENT RESOLUTIONS.

dent of the United States, secretary of war, and to each of our senators and representatives in congress.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.

WILLIAM W. DEAN, *Clerk*.

STATE OF NEW-YORK.

In Senate, April 29, 1846.

Resolved, That the senate do concur with the assembly in the foregoing resolutions.

By order of the Senate.

S. YOUNG, *President, pro tem*.

ISAAC R. ELWOOD, *Clerk*.

STATE OF NEW-YORK.

In Assembly, May 6, 1846.

Resolved, (if the senate concur,) That the secretary of state and comptroller be directed to procure the senate and assembly documents and journals, with the indexes thereto to be bound in boards, with leather backs and corners, and lettered for the members, officers, deputy clerks and reporters of the senate and assembly, and also the documents and journals to be full bound for the senate and assembly libraries, for which purpose the said secretary of state and comptroller, shall advertise in three newspapers published in the city of Albany, for at least two successive weeks, for sealed proposals, and shall accept of and contract with the person or persons making the most favorable proposals for the state. And the said secretary of state and comptroller shall, with all convenient despatch, cause the said documents with the journals of the senate and assembly, to be forwarded to the several county clerks for the use of the members and other persons entitled thereto. The expense of carrying out this resolution shall be paid from the contingent expenses of the senate and assembly.

By order of the Assembly.

WILLIAM C. CRAIN, *Speaker*.

WILLIAM W. DEAN, *Clerk*.

STATE OF NEW-YORK.

In Senate, May 9, 1846.

Resolved, That the senate do concur with the assembly in the foregoing resolution.

A. GARDINER, *President*.

ISAAC R. ELWOOD, *Clerk*.

INDEX.

A.

Ableman, Stephen V. R.

Act for the relief of, ...	Page. 390
------------------------------	--------------

Abortion.

Act to punish the procurement of, amended, ...	19
--	----

Absconding Debtors.

Act in relation to the assignees of, ...	170
--	-----

Academy.

Buffalo literary and scientific, ...	91
Geneseo, ...	441
Jefferson County Institute, ...	389
Literary institutions to hold certain estates in trust, ...	76
Livingston County High School, ...	441
Natural History, ...	142

Actions of Ejectment.

Act to stay proceedings by bills of exceptions, ...	171
---	-----

Actions of Wrongs.

See imprisonment of attorneys and others, ...	164
---	-----

Adams and Henderson.

Act relative to school district No. 5, in the towns of, ...	52
---	----

Adjutant-General.

See Lafayette Horse Guards, ...	254
See German Horse Guards, ...	343
Act for the enrolment of the militia, ...	346

Administrator.

Power to revoke letters of administration, ...	381
--	-----

Advertisements.

See act to provide for the public printing, ...	20
---	----

Agricultural Association.

American incorporated, ...	459
------------------------------	-----

Albany City.

Taxes of 1845, ...	3, 16, 53
Shamrock Benevolent Society of, ...	91
Charter of Hydrant Company amended, ...	179

Gallery of fine arts,.....	475
Appropriation for repairs of capitol,.....	480

Albany County.

Taxes of 1845,.....	3, 16
To elect four members of Assembly,.....	48
See Senate districts,.....	468

Albany Gallery of Fine Arts.

Incorporated,.....	475
--------------------	-----

Albany Hydrant Company.

Charter amended,.....	179
-----------------------	-----

Albion.

Supreme court commissioner to reside at,.....	146
---	-----

Aliens.

Buckner, Lucy,.....	372
Englishbee, Francis,.....	181
Fromholt, John,.....	183
Henderson, David,.....	313
May, Westfall,.....	374
Stephens, Harrison,.....	316
Strange, Edwin B.,.....	74
Williams, Sarah Kelly,.....	375

Allegany County.

Taxes of 1845,.....	3
To elect two members of Assembly,.....	48
Towns of Eagle, Pike and part of Portage, annexed to Wyoming county,.....	53, 121
Certain records in to be copied for Wyoming county,.....	54
Part of Portage annexed to the town of Hume,.....	54
Act concerning the district attorney of,.....	140
Towns of Nunda and Portage annexed to Livingston county,.....	235
Indians on reservations not to be furnished with liquor,.....	372
See Senate Districts,.....	468

Allegany Reservation.

Indians on not to be supplied with liquor,.....	372
---	-----

Allen, Hiram.

Allowance to,.....	477
--------------------	-----

American Agricultural Association.

Incorporated,.....	459
--------------------	-----

Amherst.

School district in village of Williamsville,.....	132
---	-----

Andrew, Francis.

See La Fayette Horse Guards,.....	254
-----------------------------------	-----

Apportionment.

Of members of the Assembly,.....	48
----------------------------------	----

	Page.
<i>Apprehension of Criminals.</i>	
See act to defray the expenses of, ...	161
<i>Appropriations.</i>	
(See comptroller and supply bill.)	
<i>Arms and Armories.</i>	
See act for the enrolment of the militia, ...	346
<i>Assembly.</i>	
Act for the appointment of the members of, ...	48
Money to be paid to deputy clerks of, ...	477
Allowance to chaplains of, ...	477
Committee to investigate about canals to be paid, ...	480
Concurrent resolutions, ...	483 484, 485, 486,
Contract for binding documents and journals, ...	486
<i>Assessors.</i>	
Act relative to, in the town of Newburgh, ...	29
See act to equalize taxation, ...	466
<i>Assignees.</i>	
1 absconding insolvent and imprisoned debtors, ...	170
<i>Asylum.</i>	
Act relative to State Lunatic, ...	101
<i>Attorney.</i>	
Law partners of district attorneys forbidden to act as counsel, ..	132
Act in relation to imprisonment of upon execution, ...	164
<i>Attorney-General.</i>	
His duty under the act to provide for the public printing, ...	20
To cancel a bond or lease against John Moore, ...	25
See act for the relief of Zenas Higgins, ...	234
<i>Auburn.</i>	
Fort Hill cemetery association incorporated, ...	114
<i>Auburn and Rochester Railroad Company.</i>	
Act for the relief of, ...	196
<i>Auburn State Prison.</i>	
See Clinton State Prison, ...	463
<i>Auction.</i>	
Act in relation to goods sold at, ...	65
<i>Auctioneers.</i>	
Act in relation to the bonds of, ...	65
<i>Aurora and Buffalo Plank Road.</i>	
Company incorporated, ...	215
<i>Ava.</i>	
Act to erect the town of, ...	315

B.

<i>Bailing Prisoners,</i>	
In Erie county, ...	149
<i>Banks,</i>	
Buffalo Savings, ...	191
Farmers of Orleans, ...	379
Insolvent Safety Fund, ...	100
Receivers of Insolvent Safety Fund, ...	100
Safety Fund, Insolvent, ...	100
<i>Bankrupt,</i>	
See act in relation to pleading in certain cases, ...	305
<i>Baptist Church,</i>	
First in Williamsburgh, ...	218
<i>Barnes, Ira P.</i>	
Allowance to, ...	478
<i>Barnes, Isaac</i>	
Act for the relief of, and others, ...	56
<i>Beardsley, Abner N.</i>	
Allowance to, ...	477
<i>Beavan, Thomas</i>	
Act for the relief of, ...	141
<i>Bedford Road,</i>	
Act relative to, in Brooklyn, ...	30
<i>Beebe, Lewis and James L.</i>	
Act for the relief of, and others, ...	169
<i>Beef and Pork,</i>	
Office of inspector general of, in New York abolished, ...	18
<i>Benton, N. S.</i>	
Money to be paid to, for census map, ...	479
<i>Betts, Joseph</i>	
Acts of, as a justice of the peace, confirmed, ...	391
<i>Bills of Exceptions,</i>	
Act to stay in actions of ejectment, ...	171
<i>Black River Canal,</i>	
See act relative to the public works, ...	308
<i>Black River Literary and Religious Institute,</i>	
Act to change the name of the, ...	339
<i>Bloss, Samuel</i>	
Authorized to erect a dock, ...	89
<i>Board of Health,</i>	
See Quarantine, ...	395

Bonds,

See act in relation to duties on goods sold at public auction, ... 65

Books,

See Natural History, ... 142

Boonville,

Ava erected from the town of, ... 315

Railroad and Slack Water Navigation from, to Port Kent, ... 442

Bradt, Francis

Allowance to, ... 477

Bridges,

In Suffolk, Queens and Kings counties, ... 11

Eddyville, ... 75

Over Rondout creek in Wawarsing, ... 85

Over Black river in Pamelaia and Watertown, ... 90

Painted-Post, ... 96

International Bridge Company, ... 116

Cochecton, ... 122, 137

Over canal at Rotterdam, ... 129

Over Grass river in Massena, ... 131

Susquehannah, ... 170

In Canajoharie, ... 196

Free Bridge across Oswego river, ... 210

Across the Black river, ... 303

Across Genesee Valley canal at Rochester, ... 304

Across Neversink river, ... 309

In the town of Butternuts, ... 314

Across the Wallkill in Ulster county, ... 401

Across the Rondout creek in Ulster county, ... 411

Briggs Thomas, and E. Worden,

Act for the relief of, ... 73

Brooklyn Benevolent Society,

Charter of, amended, ... 469

Brooklyn City,

Act relative to the Bedford Road in, ... 30

Act relative to Carll-street in, ... 31

St. David's Benevolent Society incorporated, ... 172

Act to create a loan for building City Hall, ... 180

Act authorizing Kent-avenue to be extended, ... 250

Act to alter the commissioners' map of the, ... 310

Act in relation to Flushing-avenue, ... 345

See act for the relief of Mary Agnes Titus and others, ... 375

Act relative to, and to Brooklyn and Jamaica railroad, ... 441

See Greenwood Cemetery, ... 469

Benevolent Society, ... 469

Brooklyn and Jamaica Railroad Company,

Act relative to, and to the city of Brooklyn, ... 441

	Page.
<i>Broome County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Act relative to Susquehannah Bridge Company, ...	170
Chenango Junction Canal Company incorporated, ...	328
See Senate Districts, ...	468
<i>Brutus,</i>	
Act relative to School-district No. 8, in the town of, ...	6
<i>Buckner, Lucy</i>	
Title to certain real estate vested in, ...	372
<i>Buel, William</i>	
Act for the relief of, ...	145
<i>Buffalo and Hinsdale Railroad,</i>	
Company incorporated, ...	317
<i>Buffalo and Niagara Falls Railroad,</i>	
Act to amend charter of Company, ...	263
<i>Buffalo and Lancaster Plank Road,</i>	
Company incorporated, ...	260
<i>Buffalo City,</i>	
Buffalo Literary and Scientific Academy dissolved, ...	91
See Bailing Prisoners, &c., in Erie county, ...	149
Savings Bank incorporated, ...	191
University incorporated in, ...	218
Buffalo and Lancaster plank road, ...	260
German Young Men's Association incorporated, ...	324
<i>Buffalo Savings Bank,</i>	
Incorporated, ...	191
<i>Buffalo University,</i>	
Incorporated, ...	218
<i>Buildings,</i>	
See act for the security of mechanics, ...	206
<i>Bush, John I.</i>	
Money to be paid to, ...	478
<i>Butchers' Benevolent Society,</i>	
Act to revive charter of, ...	471
<i>Butternuts,</i>	
Act relative to bridges in the town of, ...	314
C.	
<i>Camp,</i>	
See Militia, ...	346
<i>Campbell, Archibald,</i>	
Act for the relief of, and A. Kingsley, ...	301

Canajoharie,

Act relative to roads and bridges in, ...	196
---	-----

Canal.

Junction Canal Company incorporated, ...	222
See act for the protection of the public works, ...	308
Chenango Junction Canal Company incorporated, ...	328
See Northern Slackwater, ...	442
Erie, to reduce bottom level in certain places, ...	464

Canal Appraisers.

Act for the relief of Nathan S. Hollister, ...	14
Simeon Rogers, ...	55
Seymour N. Marsh, ...	140
Henry Heath, ...	184
Peter Wagner, ...	299
Amos Kingsley and A. Campbell, ...	301
Daniel Knight, ...	314
Patrick Cooney, ...	382

Canal Board.

Thomas Briggs and Eben Worden, ...	73
William Buel, ...	145
John Meriam, Benjamin D. Utter and Isaac Wood, ...	166
John Sanford and William Eggleston, ...	167
Isaac and William Thompson, and Lewis and J. L. Beebe, ...	169
Mordecai Ogden and John Durfee, ...	251
Isaac Jackson, ...	298
Robert Renwick, jr., and others, ...	389
Act concerning Dansville Slip and Basin, ...	410

Canal Commissioners,

John O. and Benjamin Frazee, and J. C. Foster, ...	120
Bridge over the Canal at Rotterdam, ...	129
Bridge to be built across Genesee Valley canal at Rochester, ..	304
See act to provide for the protection of the public works, ...	308
George J. E. Lasher, ...	316
Robert Renwick, jr., and others, ...	389
Stephen V. R. Ableman, ...	390
Jonas Ingraham, ...	409
Crooked Lake and Chemung canals, locks, ...	464
To reduce bottom level of Erie canal east of Rochester, ...	464

Canal Fund Commissioners,

Nathan S. Hollister, ...	14
Simeon Rogers, ...	55
Thomas Briggs and E. Worden, ...	73
J. O. and B. Frazee, and J. C. Foster, ...	120
Seymour N. Marsh, ...	140
John Merriam, B. D. Utter and I. Wood, ...	166
John Sanford and W. Eggleston, ...	167

	Page
Isaac and W. Thompson, and L. and J. L. Beebe, ...	168
Henry Heath, ...	184
Mordecai Ogden, and John Durfee, ...	251
James C. Ott, ...	298
Peter J. Wagner, ...	299
Jannot C. Shippy, ...	299
Amos Kingsley and A. Campbell, ...	301
Protection of the public works, ...	308
Daniel Knight, ...	314
George J. E. Lasher, ...	316
Patrick Cooney, ...	382
Stephen V. R. Ableman, ...	390
Jonas Ingraham, ...	409
Locks on Crooked Lake and Chemung canals, ...	464
To borrow 300,000, ...	465
<i>Canton,</i>	
Act for building a town house in, ...	84
Act concerning road from Ogdensburgh to, ...	125
<i>Capitol,</i>	
To be supplied with pure and wholesome water, ...	64
Appropriation for repairs of, ...	480
<i>Carll Street,</i>	
Act relative to, in Brooklyn, ...	31
<i>Carpenter Cyril,</i>	
Act for the relief of, ...	56
<i>Cattaraugus County,</i>	
Taxes of 1845, ...	3
Town of Rice erected from Hinsdale, ...	12
To elect two members of Assembly, ...	48
Quaker run Creek declared a public highway, ...	72
Act for the education of Indian children, ...	127
Act concerning Lodi Union School District, ...	254
Horace D. Swan may keep a ferry, ...	379
See Senate Districts, ...	468
<i>Cattaraugus Reservation,</i>	
Indians on, not to be furnished with liquor, ...	372
<i>Cayuga County,</i>	
Taxes of 1845, ...	3
School District No. 8 in Brutus, ...	6
Act to preserve trout in Owasco Lake, repealed, ...	31
To elect three Members of Assembly, ...	48
Fort Hill Cemetery Association incorporated, ...	114
See Senate Districts, ...	468
<i>Cayuga and Susquehannah Railroad Company,</i>	
Charter amended, ...	202

	Page.
<i>Cemetery,</i>	
Fort Hill Association incorporated.....	114
<i>Central Square, Oswego,</i>	
Plank road from Salina to,.....	178
<i>Certified Transcripts,</i>	
See documentary evidence, ...	303
<i>Cession,</i>	
Jurisdiction of certain lands ceded to the United States,.....	22
<i>Chancery,</i>	
See act to dissolve Buffalo Literary and Scientific Academy,..	91
See act authorizing wills of real estate, &c., to be recorded,..	204
See act in relation to Farmers Bank of Orleans,.....	379
<i>Charter,</i>	
See act in relation to railroad charters,.....	168
Convention in relation to charter of New-York,.....	184
<i>Chautauque County,</i>	
Taxes of 1845,.....	3
To elect two Members of Assembly,.....	48
Charter of the village of Westfield, repealed,.....	264
See Senate Districts,.....	468
<i>Chemung County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Act to alter terms of courts of, ...	182
Junction Canal Company incorporated, ...	222
See Senate Districts, ...	468
<i>Chenango County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Supreme Court Commissioner to reside at Greene, ...	147
Land agent, town of Norwich, to give bond, ...	205
See Senate Districts, ...	468
<i>Chenango Junction Canal</i>	
Company incorporated, ...	328
<i>Church,</i>	
Bethel Baptist in Williamsburgh, ...	218
Methodist in Kingston, ...	340
Episcopal Missionary Society, ...	470
<i>Circuits,</i>	
See Senate Districts, ...	468
<i>Circuit Courts,</i>	
In sixth circuit, ...	5
In Fulton county, ...	60
Witnesses to be paid in certain cases,.....	63

	Page.
<i>Clark, Thomas Béach</i>	
Act for the relief of, ...	141
<i>Clerks,</i>	
Of general and special elections in Kings county, ...	187
<i>Clinton County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Saranac river declared a public highway, ...	368
See Senate Districts, ...	468
<i>Clinton State Prison,</i>	
Act in relation to the, ...	463
<i>Cochecton Bridge Company,</i>	
May establish a ferry, ...	122
Charter of, amended, ...	137
<i>Cold Spring,</i>	
Village of, incorporated, ...	105
<i>Collectors,</i>	
See act to equalize taxation, ...	466
<i>Colleges,</i>	
Madison University incorporated, ...	32
St. John's College, Fordham, ...	64
Act of 1840 relative to holding certain estates, amended, ...	76
Rochester University incorporated, ...	160
University of Buffalo incorporated, ...	218
<i>Collins,</i>	
See Lodi Union School District, ...	254
<i>Columbia County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Act for the preservation of game in, ...	88
Act for the relief of Westfall May and others, ...	374
See Senate Districts, ...	468
<i>Combs, Sarah.</i>	
Act for the relief of, ...	85
<i>Committee of the Assembly.</i>	
To examine relative to canals, to be paid, ...	480
<i>Commissioners of the Canal Fund.</i>	
(See Canal Fund Commissioners,)	
<i>Commissioners of Deeds.</i>	
Additional number to be appointed in New-York, ...	30
<i>Commissioners of Excise.</i>	
Annual meeting of, (Sec. 2,)	13

	Page.
<i>Commissary General.</i>	
See act for the enrolment of the militia,.....	346
Money to be paid to,.....	479
<i>Commissioners of the Health Office.</i>	
See Quarantine, ...	395
<i>Commissioners of the Land Office.</i>	
See act for the relief of John Moot,.....	134
To grant land to Nelson Wolcott,.....	148
See second Oneida purchase of 1829,.....	162, 343
To grant land to Martin Pope,.....	181
<i>Commissioners of Loans.</i>	
Of Wyoming county to copy certain records,.....	54
Of Livingston county to copy certain records,.....	235
Of Onondaga county how to be elected,.....	186
<i>Commissioners for loaning certain moneys of U. S.</i>	
Of Onondaga county to be elected,.....	186
Commissioners of loans of Onondaga county to act as such,..	186
Acts of, in Kings county confirmed,.....	251
<i>Common Pleas.</i>	
(See courts,)	
<i>Common Schools.</i>	
Act to amend the law in relation to,.....	50
Dissolution of districts,.....	70
Town superintendents to have care of gospel and school lots,..	210
(See schools.)	
<i>Community of True Inspiration.</i>	
Act to legalize certain trusts and conveyances of,.....	123
<i>Comptroller.</i>	
Apprehension of criminals,.....	161
Auctioneers' bonds,.....	65
Beavan, Thomas, ...	141
Bonds of auctioneers, ...	65
Capitol,.....	64
Cistern for capitol,.....	64
Clinton State Prison,.....	463
Contracts for the public printing,.....	20
Criminals, apprehension of certain,.....	161
Delaware county, expenses of sheriff,.....	69
Dispensaries, New-York,.....	381
Documents and Journals,.....	486
Duties on goods sold at auction,.....	65
German Horse Guards,.....	343
Highways in Essex, Hamilton and Warren,.....	297
House of Refuge in western New-York,.....	150
La Fayette Horse Guards,.....	254

	Page.
Ludovick, Betsey, an Indian woman,.....	302
Lunatic Asylum,.....	101
Militia,.....	346
Montezuma Salt Springs,.....	212
Mount Pleasant State Prison,....	370
Murdock, Ebenezer,.....	302
Onondaga county Treasurer, &c., how elected,.....	186
Onondaga Salt Springs,.....	212
Printing for the Legislature and Departments,.....	20
Public printing,.....	20
Salt Springs, Onondaga and Montezuma,.....	212
Schoharie county loan,.....	58
Second Oneida purchase of 1829,.....	162, 433
State Library,.....	462
State Lunatic Asylum,.....	101
Supply bill,.....	477
Taxation, act to equalize,.....	466
<i>Comstock, Calovert.</i>	
Money to be paid to,.....	479
<i>Concurrent Resolutions.</i>	
To allow Geologists to take books from State Library,.....	483
Directing Sec. of State to procure census maps,.....	483
Concerning the pilot system,.....	484
Concerning the militia, and carpeting state library,.....	485
<i>Conger, Hiram E.</i>	
Official acts of as a justice confirmed,.....	391
<i>Congress.</i>	
See resolutions concerning the pilot system,.....	484
<i>Constable.</i>	
Town House to be erected in,.....	87
See act relative to militia fines,.....	147
<i>Constitution.</i>	
See delegates to the Convention,.....	98
<i>Contracts.</i>	
For printing,.....	20
For binding Documents and Journals,.....	486
<i>Contracts for Moneys.</i>	
See imprisonment of attorneys and others,.....	164
<i>Convicts.</i>	
In county and state prisons, trial of,.....	5
See House of Refuge,.....	150
See Mount Pleasant State Prison,.....	370
Money to be paid to on being discharged,.....	463
<i>Convention.</i>	
Acts relative to the election of delegates to the,.....	98

	Page.
In relation to charter of city of New-York,.....	184
Census maps to be procured for members,.....	483
<i>Cooney, Patrick.</i>	
Act for the relief of,.....	382
<i>Cooper, Griffith M., and S. Osborn.</i>	
See act to provide for the education of Indian children,.....	127
<i>Corning and Canandaigua Railroad Company.</i>	
Charter amended,.....	202
<i>Copy,</i>	
See documentary evidence, ...	303
<i>Corporations,</i>	
Auburn and Rochester Railroad Company, ...	196
Albany Gallery of Fine Arts, ...	475
Albany Hydrant Company, ...	179
American Agricultural Association, ...	459
Aurora and Buffalo Plank Road Company, ...	215
Banks, insolvent Safety Fund, ...	100
Black River Literary and Religious Institute, ...	339
Brooklyn Benevolent Society, ...	469
Brooklyn and Jamaica Railroad Company, ...	441
Buffalo and Hinsdale Railroad Company, ...	317
Buffalo and Lancaster Plank Road Company, ...	260
Buffalo Literary and Scientific Academy, ...	91
Buffalo and Niagara Falls Railroad Company, ...	263
Buffalo Savings Bank, ...	191
Buffalo University, ...	218
Butchers' Benevolent Society, ...	471
Canandaigua and Corning Railroad Company, ...	203
Cayuga and Susquehannah Railroad Company, ...	202
Chenango Junction Canal Company, ...	328
Cochecton Bridge Company, ...	122, 137
Cold Spring Village, ...	105
Colleges and Literary Institutions, Trust Estate, ...	76
Dansville Village, ...	195
Eagle Fire Company, ...	295
East River Mutual Insurance Company, ...	337
Ebenezer Village, ...	340
Eddyville Bridge Company, ...	75
Elmira and Williamsport Railroad Company, ...	214
Episcopal Missionary Society, ...	470
Fallsburgh and Liberty Turnpike Road Company, ...	285
Firemen's Insurance Company, ...	290
Fort Hill Cemetery Association, ...	114
German Young Men's Association of Buffalo, ...	324
Gilboa and Potters Hollow Turnpike Road Company, ...	67
Great Island Turnpike Company, ...	456

	Page.
Greenwood Cemetery, ...	469
Guardian Insurance Company, ...	292
Hebrew Assistance Society, ...	93
Hebrew Mutual Benefit Society, ...	174
Henrietta Plank Road Company, ...	325
Herman's Brothers Benevolent Society, ...	96
Historical Society, ...	9
Howard Insurance Company, ...	286
Hudson and Berkshire Railroad Company, ...	458
Hudson Orphan and Relief Association, ...	94
Hudson River Railroad Company, ...	272
Jefferson Insurance Company, ...	293
Junction Canal Company, ...	222
Knickerbocker Fire Insurance Company, ...	289
Lackawack and Neversink Turnpike Company, ...	473
Literary Institutions, Trust Estate, ...	76
Lockport Village, ...	412
Madison University, ...	32
Magnetic Telegraph Association, ...	474
Manhattan Fire Insurance Company, ...	294
Merchants' Fire Insurance Company, ...	288
Methodist Episcopal Church at Kingston, ...	340
Missionary Society, ...	470
Mutual Insurance Company, ...	289
National Fire Insurance Company, ...	341
New-Windsor and Cornwall Turnpike Company, ...	462
New-York City Charter, ...	184
New-York and Connecticut Railroad Company, ...	264
New-York Equitable Insurance Company, ...	455
New-York and Erie Railroad Company, ...	459, 243
New-York Fire Insurance Company, ...	286
New-York and Harlem Railroad Company, ...	248
New-York Hebrew Assistance Society, ...	93
New-York Historical Society, ...	9
New-York and New-Haven Railroad Company, ...	231
Niagara Falls Ferry Association, ...	102
Niagara Falls International Bridge Company, ...	116
North-American Fire Insurance Company, ...	255
Northern Slack-water and Railway Company, ...	442
Northern Turnpike Road First Company, ...	97
Ocean Steam Navigation Company, ...	156
Ogdensburgh and Heuvelton Plank Road Company, ...	188
Painted Post Bridge Company, ...	96
Polish Slavonian Literary Association, ...	33
Prison Association of New-York, ...	175
Railroad Charters, ...	168
Rochester City, ...	236
Rochester University, ...	160

	<i>Page.</i>
St. Andrews Society of Schenectady, ...	48
St. David's Benevolent Society, ...	172
St. John's College, Fordham, ...	64
Safety Fund Banks, ...	100
Sag-Harbor Village, ...	172, 37
Salina and Central Square Plank Road Association, ...	178
Saratoga Springs Village, ...	257
Schenectady and Catskill Railroad Company, ...	451
Schenectady and Susquehannah Railroad Company, ...	435
Seneca Road Company, ...	457
Shamrock Benevolent Society of Albany, ...	91
Submarine Telegraph Company, ...	135
Susquehannah Bridge Company, ...	170
Syracuse Society of Brotherly Love, ...	410
Tonawanda Railroad Company, ...	388
Troy Turnpike and Railroad Company, ...	461
Union Lyceum of Lyons, ...	104
Unitarian Association, ...	248
United States Fire Insurance Company, ...	338
Young Men's Association of Fulton, ...	471
Young Men's Lyceum of Prattsburgh, ...	450
Warren Free Institute of the city of Troy, ...	28
Westfield Village, ...	264
Williamsburgh Village, ...	392

Cortland County,

Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Lot Number Eight in Virgil annexed to Cortlandville, ...	78
See Senate Districts, ...	468

Cortlandville,

Lot No. 8 in Virgil annexed to the town of, ...	78
---	----

Counsellor,

See Law-partners of District Attorneys, ...	132
---	-----

County Clerks,

To transmit to Secretary of State a statement of votes for and against Licenses, ...	13
Clerk of New-York to record bonds of auctioneers, ...	65
See Erie County Work House, ...	78
Clerk of New-York may copy certain dockets and records, ...	134
See House of Refuge, Western New-York, ...	150
Fire Proof office to be erected in Rockland county, ...	165
See act authorizing Wills of real estate, &c., to be recorded, ...	204
See act to equalize taxation, ...	466

County Treasurers,

Fees of, in Kings county, ...	27
Delaware county, ...	69

	Page.
See act concerning the Natural History, ...	142
Of Onondaga county, how to be elected, ...	186
Fees of, (except of, in New-York and Kings county,)	214
See act to equalize taxation, ...	466
<i>Court House,</i>	
In Schoharie county to be erected, ...	58
<i>Courtney, Joseph Junier</i>	
Money to be paid to, ...	491
<i>Courts,</i>	
Chemung County, ...	182
Convicts in County and State Prisons, ...	5
Documentary Evidence, ...	303
Eighth Senate District, (see Chap. 77, Sec. 11,)	78
Erie County, ...	76, 149
Fulton County, ...	60
House of Refuge, Western New-York, ...	150
Justices Court, ...	148
Law partners of district attornies, ...	132
New-York, ...	4
Official acts of justices confirmed, ...	155
Oneida County, ...	98
Pleading in certain cases, ...	305
Rensselaer County, ...	11
Sixth circuit, times of holding, ...	5
Utica Recorder's Court, ...	98
Wills of real estate &c. may be recorded, ...	204
Witnesses to be paid in certain cases, ...	63
<i>Credit of the State,</i>	
See act concerning the, ...	465
<i>Criminals,</i>	
Act in relation to the apprehension of certain, ...	161
<i>Crimes punishable with Death,</i>	
Act in relation to, ...	131
<i>Croton Water Works,</i>	
In the city of New-York, ...	19

D.

<i>Dam,</i>	
Robert R. Morris may erect one, ...	461
<i>Dansville,</i>	
Act to amend charter of the village of, ...	195
<i>Dansville Slip and Basin,</i>	
Act to authorize the canal board to assume the, ...	410

	Page.
<i>Dean, William W.</i>	
Allowance to	478
<i>Death,</i>	
Act in relation to crimes punishable with, ...	131
See act to perpetuate evidence of the death of N. Van Staphorst, &c.	364
<i>Debtors,</i>	
See fraudulent debtors, ...	255
See pleading in certain cases, ...	305
Act in relation to trustees and assignees of certain, ...	170
<i>Debts,</i>	
Of insolvent safety fund banks, ...	100
Act relative to imprisonment for debt, ...	255
Of the state, ...	465
<i>Decrees in Partition Suits,</i>	
Exemplifications of, may be recorded, ...	204
<i>Deeds,</i>	
Additional commissioners of, to be appointed in New-York, ...	30
Deed of trust executed by J. Wadsworth and others confirmed, ..	50
See mill privileges on Wynant's Kill, ...	75
See community of True Inspiration, ...	123
<i>Defendant,</i>	
See imprisonment of attorneys and others, ...	164
See actions of ejectment, ...	171
See act in relation to pleading in certain cases, ...	305
<i>Delaware County,</i>	
Taxes of 1845, ...	3
Time extended for collecting taxes in Hancock, ...	24
To elect two Members of Assembly, ...	48
See act to enforce the laws and preserve order, amended, ...	68
Certain expenses incurred by the sheriff of, to be paid, ...	69
Duty of treasurer and clerk of supervisors, ...	69
See senate districts, ...	468
<i>Delegates to the Convention,</i>	
Act in relation to the election of, ...	98
To amend charter of New-York, ...	184
<i>Deputy Clerks,</i>	
Of the Assembly, to be paid, ...	477
Of the Senate, to be paid, ...	481
<i>Deputy Inspectors,</i>	
To be appointed at Onondaga Salt Springs, ...	212
<i>Diploma,</i>	
(See University and College.)	

	Page.
<i>Dispensaries,</i>	
Act relative to the, in New-York,.....	381
<i>Dissolution,</i>	
Of Common School Districts,.....	70
Of Buffalo Literary and Scientific Academy,.....	91
<i>Distress for Rent,</i>	
Act to abolish, and for other purposes,....	369
<i>District Attorney,</i>	
Salary of, in Kings county,.....	27
Of Schoharie county,.....	102
Of Orange county,.....	123
Act to prevent law partners of, to act as counsel,.....	132
Of Allegany county,.....	140
<i>Districts,</i>	
Act for the arrangement of the Senate,.....	468
<i>District Schools,</i>	
See act in relation to the dissolution of,.....	70
(See schools,)	
<i>Dobbin, James, deceased,</i>	
Act for the relief of the estate of,.....	57
<i>Docks,</i>	
May be erected by Samuel Bloss,.....	89
<i>Docket of Judgments,</i>	
In clerks' office New-York, may be copied,.....	134
<i>Documentary Evidence,</i>	
Act in addition to the act relating to,.....	303
<i>Documents of Senate and Assembly,</i>	
Contract to be made for binding,.....	486
<i>Donaldson, Alexander J.</i>	
Money to be paid to.....	480
<i>Drug,</i>	
See abortion,.....	19
<i>Durfee, John,</i>	
Act for the relief of, and M. Ogden,.....	251
<i>Dutchess County,</i>	
Taxes of 1845.....	3
To elect three Members of Assembly,.....	48
See Senate Districts,.....	468
<i>Duties,</i>	
On goods sold at public auction,.....	65

E.

<i>Eagle.</i>	
Town of, annexed to Wyoming county,.....	53, 121
<i>Eagle Fire Company.</i>	
Act for the benefit of the,.....	295
<i>Eames, Theodore.</i>	
Official acts of, confirmed,.....	251
<i>Eastchester.</i>	
Acts to elect trustees of public lands in the town of,.....	208
<i>East River Mutual Insurance Company.</i>	
Act for the benefit of the,.....	337
<i>Ebenezer.</i>	
Act to incorporate the village of,.....	340
<i>Edwards, Charles.</i>	
Acts of, as a justice, confirmed, ...	10
<i>Eddyville Bridge Company.</i>	
Charter amended,.....	75
<i>Eels.</i>	
Act for the preservation of, in Southampton, ...	126
<i>Eggleston William.</i>	
Act for the relief of, and John Sanford,.....	167
<i>Eighth Senate District.</i>	
See Erie county Work House, Sec. 11,.....	78
<i>Ejectment.</i>	
Act to stay proceedings by bills of exceptions in actions of,....	171
<i>Election.</i>	
Delegates to the State Convention, how elected,.....	98
Delegates to amend charter of New-York,.....	184
Of superintendents of the poor, &c., in Onondaga county,.....	186
Pay of clerks of, in Kings county,.....	187
<i>Elephant Hotel.</i>	
Act concerning road from, to Peekskill,.....	144
<i>Elizabethtown.</i>	
Act relative to roads in, ...	138
<i>Elmira and Williamsport Railroad.</i>	
Act to amend the charter of,.....	214
<i>Elwood, Isaac R.</i>	
Money to be paid to, ...	481
<i>Englishbee, Francis.</i>	
Act for the benefit and relief of,.....	181

	Page.
<i>Enos, Benjamin.</i>	
Money to be paid to,.....	480
<i>Enrolment of the Militia.</i>	
Act to provide for the,.....	346
<i>Episcopal.</i>	
Missionary Society, ...	470
<i>Equitable Insurance Company.</i>	
Act for the benefit of the,.....	455
<i>Erie County.</i>	
Taxes of 1845,.....	3
To elect four Members of Assembly,.....	48
Act authorizing special terms of common pleas to be held,....	76
Work-house to be erected and established in,.....	78
Buffalo Literary and Scientific Academy, dissolved,.....	91
Trusts of community of True Inspiration, confirmed,.....	123
Act relative to school district in Williamsville,.....	132
Act to prevent abuses in the administration of justice in,.....	149
Bailing prisoners in,.....	149
Buffalo Savings Bank incorporated,.....	191
University of Buffalo incorporated,.....	218
Act concerning Lodi Union school district,.....	254
See Senate districts,.....	468
<i>Errors, (Court of)</i>	
Money to be paid to Sergeant at Arms of,.....	481
Money to be paid to porter of, ...	481
<i>Escheat.</i>	
See act for the relief of Sarah Combs,.....	85
See Westfall May,.....	374
See Sarah Kelly Williams,.....	375
<i>Esperance.</i>	
Town of erected, Schoharie county,.....	62
<i>Essex County.</i>	
Taxes of 1845,.....	3
To elect one Member of Assembly,.....	48
Act relative to roads in Moriah and Elizabethtown,.....	138
Supreme Court Commissioner to reside at Ticonderoga,.....	146
Act relative to highways in,.....	297
See Northern Slackwater and Railway,.....	442
See Senate districts,.....	468
<i>Estate in Trust.</i>	
See colleges and literary institutions,.....	76
<i>Evidence.</i>	
See act authorizing wills of real estate to be recorded, ...	204
See act in relation to documentary evidence, ...	303
See Nicholas Van Staphorst,.....	364

Execution.

See act in relation to crimes punishable with death,.....	131
See act in relation to imprisonment of attorneys,.....	164
See act extending powers of justices of the peace,.....	371

Exceptions, Bills of.

Act in relation to, in actions of ejectment,.....	171
---	-----

Executor.

Provisions respecting non-resident executors,.....	381
--	-----

Excise.

Act to amend the act of 1845, relating to,.....	13
---	----

Exemplifications.

Of judgment records &c., may be recorded,.....	204
--	-----

F.

Fallsburgh and Liberty Turnpike Road.

Charter of, amended, ...	285
----------------------------	-----

Farmers' Bank of Orleans.

Act in relation to the assets of the,.....	379
--	-----

Fees.

Of county treasurers,.....	214
----------------------------	-----

Ferry.

Niagara Falls Association,.....	102
May be established by Cochection Bridge Company,.....	122
May be established by Horace D. Swan, ...	379

Fine Arts.

Gallery of,.....	475
------------------	-----

Fines.

Act in relation to militia fines, ...	147
See act for the enrolment of the militia,.....	346
For giving liquor to certain Indians,.....	372

Fiduciary Capacity.

See act in relation to imprisonment of attorneys, ...	164.
---	------

Filtering Cistern.

To be placed in the yard of the capitol,.....	64
---	----

Finnegan, John H.

Money to be paid to, ...	481
----------------------------	-----

Firemens' Insurance Company.

Act to reduce the stock of the, ...	290
---------------------------------------	-----

Fish.

In Owasco lake, ...	31
In Otisco lake, ...	125
Eels in Southampton, Suffolk county,.....	126
Inspectors of, how appointed, ...	302

	Page.
<i>Foreign Missionary Society.</i>	
Episcopal,.....	470
<i>Fortifications.</i>	
Act to cede the jurisdiction of certain lands for, ...	22
<i>Flatbush.</i>	
Road to be laid out in the town of, ...	300
Act relative to common schools in the town of, ...	301
Act to widen the old mill road in, ...	304
<i>Flushing Avenue.</i>	
In the city of Brooklyn, ...	345
<i>Fordham.</i>	
St. John's college incorporated, ...	64
<i>Fort Hill Cemetery.</i>	
Association incorporated, ...	114
<i>Foster, Julius C.</i>	
Act for the relief of, and others, ...	120
<i>Franklin County.</i>	
Taxes of 1845, ...	3
To elect one member of Assembly, ...	48
Town house to be erected in Constable, ...	87
Act for the education of Indian children, ...	127
See Senate districts, ...	468
<i>Fraud.</i>	
See act to imprison attorneys and others, ...	164
See act in relation to pleading in certain cases, ...	305
<i>Fraudulent Debtors.</i>	
Act relative to, ...	255
<i>Frazee, J. O. and Benjamin.</i>	
Act for the relief of, and J. C. Foster, ...	120
<i>French, Augusta Eliza.</i>	
Former name Augusta Smith, ...	52
<i>Fromholt, John.</i>	
See act for the relief of Asenath Mougins, ...	183
<i>Fulton.</i>	
Young Men's Association of, incorporated, ...	471
<i>Fulton County.</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly (with Hamilton county) . . .	48
Act relative to courts in, ...	60
To elect a delegate to convention (with Hamilton county). . . .	98
See Senate districts, ...	468

G.

Gallery of Fine Arts,

Incorporated, ... 475

Game,

Act for the preservation of, in Saratoga county, ... 68

Act for the preservation of, in Columbia county, ... 88

Act for the preservation of, in Ulster county, ... 89

Geddes,

See Onondaga Salt-Springs, ... 212

General Sessions,

Court of, in New-York may extend terms, ... 4

Genesee County,

Taxes of 1845, ... 3

Act in relation to, ... 13

Money to be raised by tax in Pavilion, ... 13

To elect two Members of Assembly, ... 48

Supreme court commissioner at Le Roy, ... 145

See Senate districts, ... 468

Genesee Falls,

Town of, erected in Wyoming county, ... 53

Genesee Valley Canal.

See Protection of the Public Works, ... 308

Bridge to be built across at Rochester, ... 304

Genesee Academy,

Former name Livingston County High-School, ... 441

Geology,

See Natural History, ... 142

Geological Map,

To be sold with Natural History, ... 142

German Horse Guards,

Act for the relief of the, ... 343

German Young Men's Association,

Of Buffalo, incorporated, ... 324

Gilboa and Potters-Hollow Turnpike,

Charter of the company amended, ... 67

Goods Sold at Auction,

Act in relation to duties on, ... 65

Goshen,

See act concerning the records of the town of, ... 366

Gospel and School Lots,

Act to abolish the office of trustees of, ... 210

	Page.
<i>Governor,</i>	
To appoint fifty additional commissioners of deeds in New-York,	30
To appoint a supreme court commissioner in Monroe county, ..	133
His duties under the act concerning the Natural History, ...	142
To appoint a supreme court commissioner to reside at Le Roy,	145
To appoint a supreme court commissioner to reside at Ticonde- roga, ...	146
To appoint a supreme court commissioner to reside at Albion, ..	146
To appoint a supreme court commissioner to reside at Greene, .	147
See House of Refuge in western New-York, ...	150
See act in relation to the apprehension of certain criminals, ...	161
To appoint a supreme court commissioner to reside at Sacketts- Harbor, ...	164
Inspectors of hops, fish and oil, how appointed, ...	302
Act to provide for the enrolment of the militia, ...	346
To appoint a commissioner to take evidence of the deaths of Nicholas Van Staphorst and others, ...	364
See Concurrent Resolutions, ...	484, 485
<i>Grant, William H.,</i>	
Allowance to, ...	478
<i>Gray, Jane,</i>	
Allowance to, ...	478
<i>Great Island Turnpike Company,</i>	
Charter amended, ...	456
<i>Greene,</i>	
Supreme court commissioner to reside at, ...	147
<i>Greenwood Cemetery,</i>	
Charter of, amended, ...	469
<i>Greig,</i>	
Bridge at to be erected across the Black river, ...	303
<i>Guard,</i>	
See act to enforce the laws and preserve order amended, ...	68
See Lafayette Horse Guards, ...	254
See German Horse Guards, ...	343
<i>Guardian Insurance Company,</i>	
Act for the benefit of the, .	292
<i>Gunpowder,</i>	
Act relative to, and saltpetre in New-York, ...	383

H.

Herkimer County,

Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
School District No. 10 Little-Falls, may borrow money, ...	51

	Page.
Road from Herkimer village to Middleville, ...	305
See Senate Districts, ...	468
<i>Hermans Brothers Benevolent Society,</i>	
Of New-York incorporated, ...	96
<i>Higgins, Zenas,</i>	
Act for the relief of, ...	234
<i>Hine R. H.,</i>	
Money to be paid to, ...	479
<i>Hinsdale,</i>	
Town of, divided, ...	12
<i>Historical Society,</i>	
Charter of, revived and continued, ...	9
<i>Holdridge, D. F.,</i>	
Money to be paid to, ...	479, 482
<i>Holland Land Company,</i>	
See act to perpetuate the evidence of the deaths of the, ...	364
<i>Hollister Nathan S.,</i>	
Act for the relief of, ...	14
<i>Hops,</i>	
Inspectors of, how to be appointed, ...	302
<i>Horse Guards,</i>	
See Lafayette Horse Guards, ...	254
See German Horse Guards, ...	343
<i>House of Refuge,</i>	
Act for establishing in Western New-York, ...	150
<i>Howard Insurance Company,</i>	
Charter amended, ...	286
<i>Howlett Heman R.,</i>	
Allowance to, ...	478
<i>Habeas Corpus,</i>	
See Trial of Convicts in County and State Prisons, ...	5
<i>Hamilton County,</i>	
Taxes of 1845, ...	3
Member of Assembly to be elected in conjunction with Fulton Co.,	48
Delegate to the Convention how elected, ...	98
Act relative to highways in, ...	297
See Northern Slackwater and Railway, ...	442
See Senate Districts, ...	468
<i>Hancock,</i>	
Act relative to taxes in the town of, ...	24
<i>Harlem Rail Road,</i>	
Act of 1845, relative to, amended, ...	248

	Page.
<i>Harris Joseph L.,</i>	
Money to be paid to,.....	479
<i>Hays Catharine,</i>	
Allowance to,.....	478
<i>Heath Henry,</i>	
Act for the relief of,.....	184
<i>Health officer,</i>	
See Quarantine,.....	395
<i>Hebrew Assistance Society,</i>	
Incorporated, ...	93
<i>Hebrew Mutual Benefit Society,</i>	
Incorporated, ...	174
<i>Henderson and Adams,</i>	
See School District No. 5 in the towns of,.....	52
<i>Henderson David,</i>	
Act for the relief of his widow and heirs,.....	313
<i>Henrietta Plank Road,</i>	
Company incorporated,.....	325
<i>Herkimer,</i>	
Act relative to a road from the village of, to Middleville,.....	305
<i>Hudson City,</i>	
Authorized to borrow money,.....	16
Hudson Orphan and Relief Association incorporated,.....	94
<i>Hudson and Berkshire Railroad,</i>	
Act concerning its sinking fund,.....	458
<i>Hudson Orphan and Relief Association,</i>	
Incorporated, ...	94
<i>Hudson River Railroad,</i>	
Company incorporated,.....	272
<i>Hydrant Company,</i>	
Of Albany, charter amended,.....	179

I.

<i>Imprisonment,</i>	
Of attorneys and others upon execution, ...	164
Act relative to assignees of imprisoned debtors, ...	170
For debt, and to punish fraudulent debtors, act amended, ...	255
<i>Imprisonment for Debt,</i>	
See act further to amend act of 1831, ...	255
See act in relation to pleading in certain cases, ...	305
<i>Incorporated Literary Institutions,</i>	
Authorized to hold certain estates in trust, ...	76

Incorporations,
(See Corporations.)

Indians,

Children of, how to be instructed, ...	50, 127
Act for the education of the children of, ...	127
See act for the relief of Betsey Ludovick, ...	302
On Cattaraugus and Allegany reservations, ...	372

Indictments,

Expenses of witnesses to be paid in certain cases, ...	63
May be removed from Recorder's court Utica, ...	98

Ingraham, Jonas

Act for the relief of, ...	409
------------------------------	-----

Innholder,

See act concerning jurisdiction of justices' courts, ...	148
--	-----

Inns and Taverns,

See act to amend Excise Law of 1845, ...	13
See jurisdiction of justices courts, ...	148

Insolvent,

Safety Fund Banks, ...	100
Debtors, Trustees and Assignees of, ...	170

Inspector,

Of salt, office of, abolished, ...	212
Of hops, fish and oil, how appointed, ...	302

Inspector General of Beef and Pork,

Seven sections of act of 1845 creating, repealed, ...	18
---	----

Insurance Companies, .

Eagle Fire, ...	295
East River Mutual, ...	337
Firemen's, ...	290
Howard, ...	286
Jefferson, ...	293
Knickerbocker Fire, (formerly Mutual,)	289
Manhattan Fire, ...	294
Merchants' Fire, ...	288
Mutual, (now Knickerbocker,)	289
National Fire, ...	341
New-York Equitable, ...	455
New-York Fire, ...	286
New-York Guardian, ...	292
North-American Fire, ...	255
United States Fire, ...	338

Institute,

See Jefferson County Institute, ...	339
---------------------------------------	-----

	Page.
<i>International Bridge,</i>	
Company incorporated, ...	116
<i>Intoxicating Liquors,</i>	
See act to amend Excise Law of 1845, ...	13
Not to be sold or given to certain Indians, ...	372
<i>Italy,</i>	
Act to extend time for collecting taxes in the town of, ...	24
J.	
<i>Jackson, Isaac</i>	
Act for the relief of, ...	298
<i>Jail,</i>	
See trial of convicts in county and state prisons, ...	5
Liberties of, in the city of New-York, ...	28
In Schoharie county to be erected, ...	58
Certain courts may sentence prisoners to work-house, Erie coun- ty, ...	78
Kings county accommodation for prisoners, ...	86
See act relative to crimes punishable with death, ...	131
See act in relation to Militia fines, ...	147
Bailing prisoners in Erie county, ...	149
See House of Refuge, ...	150
<i>Jefferson County,</i>	
Taxes of 1845, ...	3
To elect three Members of Assembly, ...	48
Act relative to School District No. 5, in Adams and Henderson, ...	52
Act relative to bridges in Pamela and Watertown, ...	90
Supreme court commissioner to be appointed at Sacket's Harbor, ...	164
Act relative to road from Rome to Sacket's Harbor, ...	250
Black River Literary and Religious Institute, name changed, ..	339
Official acts of J. G. Lynde, as a justice, confirmed, ...	390
See Senate Districts, ...	468
<i>Jefferson County Institute,</i>	
Former name "Black River Literary and Religious Institute," ..	339
<i>Jefferson Insurance Company,</i>	
Act for the benefit of the, ...	293
<i>Joselyn, Isaac</i>	
Act for the relief of, and others, ...	56
<i>Judgments,</i>	
Dockets or transcripts of, in New-York to be copied, ...	134
See jurisdiction of justices' courts, ...	148
Exemplifications of judgment records may be recorded, ...	204
See Zenas Higgins, ...	234
See act extending powers of justices of the peace, ...	371

	Page.
<i>Judgment Records,</i>	
Exemplifications of, may be recorded, ...	204
<i>Junction Canal,</i>	
Company incorporated, ...	222, 328
<i>Justices of the Peace,</i>	
Charles Edwards' acts confirmed, ...	10
See act relative to jurisdiction of courts of, ...	148
Act to confirm official acts of certain, ...	155
See act relative to police justice in Saratoga Springs, ...	252
See act extending powers of, after expiration of term of office, .	371
See act relative to police justice in Oswego, ...	376
Act to confirm official acts of Henry Ragan, ...	378
Act to confirm official acts of James G. Lynde, ...	390
Act to confirm official acts of Joseph Betts, ...	391
Act to confirm official acts of H. E. Conger, ...	391
<i>Jurisdiction of Justices Courts,</i>	
Act concerning the, ...	148
<i>Jurors,</i>	
Drawing of in Otsego county, confirmed, ...	4
<i>Juvenile Delinquents,</i>	
House of Refuge to be established for, ...	150
K.	
<i>Kent-avenue,</i>	
In Brooklyn may be extended, ...	250
<i>Keyser, Abraham</i>	
Money to be paid to, ...	479
<i>Kings County,</i>	
Act concerning highways and bridges in, amended, ...	11
Act concerning the District Attorney and County Treasurer, ..	27
To elect three Members of Assembly, ...	48
Act authorizing a loan to provide for confinement of prisoners, .	86
Money to be raised in Williamsburgh for T. B. Clarke, ...	141
Loan for building City Hall in Brooklyn, ...	180
Pay of clerks of general and special elections in, ...	187
Compensation of town officers in, ..	187
Acts of commissioners for loaning moneys of the United States, confirmed, ...	251
Road to be laid out in Flatbush, ...	300
Act relative to common Schools in Flatbush, ...	301
Act to widen the Old Mill road in Flatbush, ...	304
Map of the city of Brooklyn to be altered, ...	310
Part of second Senate District, ...	468
<i>Kingsley, Amos</i>	
Act for the relief of, and A. Campbell, ...	301

	Page.
<i>Kingston,</i>	
St. James Methodist Church in, ...	340
<i>Knickerbocker Fire Insurance Company,</i>	
Formerly the Mutual Insurance Company, ...	289
<i>Knight, Daniel</i>	
Act for the relief of, ...	314

L.

<i>Lackawack and Neversink Turnpike,</i>	
Act to amend charter of, ...	473
<i>Lafayette Horse Guards,</i>	
Act for the relief of the, ...	254
<i>Lake Champlain,</i>	
See Northern Slack Water and Railway Company, ...	442
<i>Lands,</i>	
Jurisdiction of certain, ceded to the United States, ...	22
See act for the relief of John Moore, ...	25
Edwin B. Strange authorized to hold lands, ...	74
Title vested in Sarah Combs, ...	85
Title of Community of True Inspiration made valid, ...	123
See act for the relief of John Moot, ...	134
See act for the relief of Thomas Beavan, ...	141
To be granted to Nelson Wolcott, ...	148
Act for the relief of certain purchasers in 1829, ...	162 343
To be granted to Martin Pope, ...	181
See act for the relief of Francis Englishbee, ...	181
See act to abolish Trustees of Gospel and School Lots, ...	210
Title to, vested in the widow and heirs of David Henderson, ..	313
Harrison Stephens authorized to hold and convey, ...	316
Title vested in Lucy Buckner, ...	372
Title vested in Mary Agnes Titus and others, ...	375
Title vested in Henry E. Carl and others, ...	374
<i>Lasher, George J. E.</i>	
Act for the relief of, ...	316
<i>Law Partners of District Attornies,</i>	
Prohibited from acting as counsel in certain cases, ...	132
<i>Laws,</i>	
Contract to be made for publishing the Session Laws, ...	20
Act to enforce the laws and preserve order amended, ...	68
To be furnished to the town of Goshen, ...	366
One hundred copies third edition Revised Statutes to be purchased, ...	480

	Page.
<i>Lease,</i>	
See act to abolish distress for rent,.....	369
See act to equalize taxation,.....	466
<i>Legal Notices,</i>	
(See act to provide for the public printing,)	
<i>Leonard, Hiram,</i>	
Money to be paid to,.....	481
<i>Leonard, Nathaniel,</i>	
See act for the relief of E. Murdock,.....	302
<i>Le Roy,</i>	
See act in relation to the county of Genesee,.....	13
Supreme Court Commissioner to reside at,.....	145
<i>Lessor,</i>	
See act to abolish distress for rent,.....	369
<i>Lewis County,</i>	
Taxes of 1845,.....	3
Act to raise a tax to repair poor house,.....	31
To elect one member of Assembly,.....	48
Bridge to be built between Greig and Martinsburgh.....	303
Acts of Henry Ragan as a justice confirmed,.....	378
See Senate Districts,.....	468
<i>Letters Testamentary and of Administration,</i>	
Granted to non-resident, may be revoked,.....	381
<i>Library,</i>	
See Natural History,.....	142
Act relative to the State Library,.....	462
Resolution about carpeting State Library,.....	485
<i>Licenses,</i>	
See act to amend excise law of 1845,.....	13
Return of votes for or against, to be made,.....	13
<i>Lien,</i>	
See act to equalize taxation,.....	466
<i>Lieutenant Governor,</i>	
His duty under act to establish House of Refuge,.....	150
<i>Liquor,</i>	
Not to be furnished to certain Indians,.....	372
<i>Literary Institutions,</i>	
Madison University incorporated,.....	32
Polish Slavonian Association,.....	33
Buffalo Literary and Scientific Academy dissolved,.....	91
Union Lyceum of Lyons,.....	104
See Natural History,.....	142
University of Rochester, incorporated,.....	160
University of Buffalo incorporated,.....	218

	Page.
Jefferson County Institute,.....	339
Geneseo Academy,.....	441
Young Men's Lyceum of Prattsburgh,.....	450
<i>Little-Falls.</i>	
Trustees of school district No. 10, in the town of, may borrow money, ...	51
<i>Liverpool,</i>	
See Onondaga Salt Springs,.....	212
<i>Livingston County.</i>	
Taxes of 1845,.....	3
Sparta divided into three towns, ...	17
North Dansville and West Sparta erected.....	17
To elect two Members of Assembly,.....	48
Deed of trust executed by J. Wadsworth and others confirmed, ...	50
Act for auditing certain town accounts, ...	129
Towns of Nunda and Portage annexed to,.....	235
Commissioners of loans to copy mortgages, ...	235
High School Association, name changed,.....	441
See Senate Districts,.....	468
<i>Loan,</i>	
Brooklyn city,.....	180
Canal loan of \$300,000,.....	464
Hudson city,.....	16
Kings county,.....	86
New-York Building Loan Stock No. 2,.....	382
Schoharie county,.....	58
<i>Lockerty, William, C.</i>	
Allowance to,.....	478
<i>Lockport,</i>	
Charter of the village of, amended,.....	412
<i>Lodi, Union School District,</i>	
Act concerning the, ...	254
<i>Lott, John P.</i>	
Money to be paid to,.....	481
<i>Ludovick, Betsey,</i>	
Act for the relief of,.....	302
<i>Lunatic Asylum,</i>	
Act in relation to the,.....	101
<i>Lyceum,</i>	
Union, of Lyons, incorporated,.....	104
Young Men's of Prattsburgh,.....	450
<i>Lynde, James G.</i>	
Official acts of, confirmed,.....	390

	Page.
<i>Lyons,</i>	
Union Lyceum of, incorporated,.....	104
<i>Lysander,</i>	
See free bridge across Oswego river,.....	210
M.	
<i>Maben, Parmelia.</i>	
Allowance to,.....	478
<i>McPherson, Lachlan.</i>	
Money to be paid to,.....	480
<i>Madison County.</i>	
Taxes of 1845,.....	3
Madison University, incorporated,.....	32
To elect two members of Assembly,.....	48
Act for the relief of purchasers of lands in 1829,.....	162, 343
See Senate districts,.....	468
<i>Madison University.</i>	
Incorporated,.....	32
<i>Magnetic Telegraph.</i>	
Association incorporated,.....	474
<i>Mails of the United States.</i>	
Railroad Companies to contract to carry the (Sec. 17,)	271
<i>Manhattan Fire Insurance Company.</i>	
Act for the benefit of the,.....	294
<i>Map.</i>	
Census map to be procured for members of convention,.....	493
<i>Marshal.</i>	
See act relative to militia fines,.....	147
<i>Marsh, Seymour N.</i>	
Act for the relief of,.....	140
<i>Martinsburgh.</i>	
Bridge at, to be erected across the Black River,.....	303
<i>Massena.</i>	
Money to be raised by tax in the town of,.....	131
<i>Mather, Sarah P.</i>	
See Submarine Telegraph Company,.....	135
<i>May, Westfall.</i>	
Act for the relief of, and others,.....	374
<i>Mechanics.</i>	
Act for the better security of, in Richmond county,.....	206
<i>Medical College.</i>	
See University of Buffalo,.....	218
<i>Medicine.</i>	
See act to punish the procurement of abortion,.....	19

	Page.
<i>Meigs, John,</i>	
Money to be paid to, ...	479
<i>Members of Assembly.</i>	
Act for the apportionment of, ...	48
<i>Merchandize.</i>	
See duties on goods sold at public auction, ...	65
<i>Merchant's Insurance Company,</i>	
Act for the benefit of the, ...	288
<i>Meriam, John,</i>	
Act for the relief of, and others, ...	166
<i>Methodist Church,</i>	
In Kingston, name changed, ...	340
<i>Mexico,</i>	
Act to provide for building a Town Hall in, ...	377
<i>Militia,</i>	
See act to enforce the laws and preserve order, ...	68
Certain expenses of sheriff of Delaware county to be paid, ...	69
Militia fines, ...	147
See Horse Guards, ...	343, 254
Act to provide for the enrolment of the, ...	346
Resolutions concerning the, ...	485
<i>Miller, Martin,</i>	
Money to be paid to, ...	481
<i>Mill Privileges,</i>	
On Wynants Kill, Rensselaer county, ...	75
<i>Missionary Society,</i>	
Protestant Episcopal, ...	470
<i>Monroe County.</i>	
Taxes of 1845, ...	3
To elect three Members of Assembly, ...	48
Act relative to district No. 10 in the town of Sweden, ...	56
Supreme Court Commissioner to be appointed in, ...	133
Rochester University, incorporated, ...	160
Charter of Rochester amended, ...	236
See Senate districts, ...	468
<i>Montezuma Salt Springs,</i>	
Office of superintendent of, abolished, ...	212
<i>Montgomery County,</i>	
Taxes of 1845, ...	3
To elect two members of Assembly, ...	48
Act relative to roads and bridges in Canajoharie, ...	196
See Senate districts, ...	468
<i>Moore, John,</i>	
Act for relief of, ...	25

<i>Moriah.</i>	
Act relative to road in, ...	138
<i>Moot, John,</i>	
Act for relief of, ...	134
<i>Morange, P. M.</i>	
Money to be paid to, ...	479
<i>Morris, Robert R.</i>	
Authorized to erect a dam, ...	461
<i>Mortgages.</i>	
To be transcribed for the county of Wyoming, ...	54
To be transcribed for Livingston county, ...	235
<i>Mougin Asenath.</i>	
Act for the relief of, ...	183
<i>Mount Pleasant State Prison.</i>	
Appropriation for, ...	370
See Clinton State Prison, ...	463
<i>Murder.</i>	
See act in relation to crimes punishable with death, ...	131
<i>Murdock, Ebenezer.</i>	
Act for the relief of, ...	302
<i>Mutual Insurance Company.</i>	
Now called Knickerbocker Fire Insurance Company, ...	289
N.	
<i>Names changed,</i>	
Augusta Smith to Augusta E. French, ...	52
<i>National Fire Insurance Company,</i>	
Act for the benefit of the, ...	341
<i>Natural History,</i>	
Act concerning the, of the State of New-York, ...	142
<i>Navigation, Internal,</i>	
(See Canals.)	
<i>Neahr Israel R.,</i>	
Allowance to, ...	477
<i>Neversink River,</i>	
Bridge across the, ...	309
<i>Newburgh,</i>	
Act relative to the assessors in the town of, ...	29
<i>Newcastle,</i>	
Part of Somers annexed to the town of, ...	313
<i>Newspaper,</i>	
To publish certain notices, how to be selected, ...	21

	Page.
<i>New York,</i>	
Assembly sixteen Members to be elected,.....	48
Auction duties and auctioneers' bonds,.....	65
Beef and Pork, seven sections of act of 1845 repealed,.....	18
Books of record may be copied by county clerk,.....	134
Building Loan Stock, No. 2,.....	382
Charter Convention to be called in relation to,.....	184
Combs Sarah, title to lands vested in her,.....	85
Commissioners of deeds, additional number,.....	30
Convention in relation to the Charter,.....	184
County clerk to record bonds of auctioneers,.....	65
Croton Waterworks,.....	19
Court of General Sessions, may extend term,.....	4
Dobbin James deceased, premises owned by, may be exchanged,	57
Dockets of judgments may be copied,.....	134
Dispensaries,.....	381
Duties on goods sold at public auction,.....	65
Eighteenth ward erected,.....	15
Election to choose delegates to Convention,.....	184
Eleventh Avenue to be continued,.....	344
Englishbee Francis,.....	181
Exterior Street, or Avenue,.....	344
German Horse Guards,.....	343
Gunpowder, Saltpetre, &c.,.....	383
Health officer, see quarantine,.....	395
Hebrew Assistance Society,.....	93
Hebrew Mutual Benefit Society,.....	174
Hermans Brothers Benevolent Society,.....	96
Historical Society, charter revived,.....	9
Inspector-general of Beef and Pork, office abolished,.....	18
Jail liberties,.....	28
Judgments, transcripts of, may be copied,.....	134
Lafayette Horse Guards,.....	254
Magnetic telegraph,.....	474
Marine hospital,.....	395
Members of Assembly, sixteen to be elected,.....	48
New-York and Erie railroad,.....	243, 459
Ocean Steam Navigation Company,.....	156
Pilot system,.....	484
Police regulations,.....	403
Prison association,.....	175
Quarantine regulations,.....	395
St. David's Benevolent Society,.....	172
Saltpetre, gunpowder, &c.,.....	383
Senate district, first,.....	468
Sixteenth ward divided,.....	15
Submarine Telegraph Company,.....	135
Tax, money to be raised by,.....	99

	Page.
Water lots, ...	344
Water stock, interest of, how to be raised, ...	19
Work house by prison association, ...	175
<i>New-York and Connecticut Railroad,</i>	
Company incorporated, ...	264
<i>New-York and Erie Railroad,</i>	
Act of 1845, relative to, amended, ...	248, 459
<i>New-York and Harlem Railroad,</i>	
Act of 1845, relative to, amended, ...	248
<i>New-York and New-Haven Railroad,</i>	
Act relative to the, ...	231
<i>New-York Equitable Insurance Company,</i>	
Act for the benefit of the, ...	455
<i>New-York Fire Insurance Company,</i>	
Charter of, amended, ...	286
<i>New-Windsor and Cornwall Turnpike,</i>	
Charter of, amended, ...	462
<i>Niagara County,</i>	
Taxes of 1845, ...	3
Two Members of Assembly to be elected, ...	48
Niagara Falls Ferry Association incorporated, ...	102
International Bridge Company incorporated, ...	116
Charter of Lockport amended, ...	412
<i>Niagara Falls,</i>	
Ferry association incorporated, ...	102
International Bridge Company, incorporated, ...	116
<i>Non-resident Debtors,</i>	
Act relative to the appointment of assignees of, ...	170
<i>North American Fire Insurance Company,</i>	
Act for the benefit of the, ...	255
<i>North Dansville,</i>	
Town of erected, ...	17
Act for settling accounts, ...	129
<i>Northern Slackwater and Railway,</i>	
Company incorporated, ...	442
<i>Northern Turnpike Road,</i>	
First company relieved, ...	97
<i>Norwich,</i>	
Land agent in the town of, to give bond, ...	205
<i>Nunda,</i>	
Town of, annexed to Livingston county, ...	225

O.

<i>Ocean Steam Navigation Company,</i>	
Incorporated, ...	156
<i>Official acts confirmed.</i>	
Of Charles Edwards, ...	10
Of officers in the town of Ossinsing, ...	26
Of certain justices of the peace, ...	155
Of certain commissioners in Kings county, ...	251
See act extending powers of justices of the peace, ...	371
<i>Ogden, Mordecai,</i>	
Act for the relief of, and John Durfee, ...	251
<i>Ogdensburgh,</i>	
Act concerning road from, to Canton, ...	125
<i>Ogdensburgh and Heuvelton Plank Road,</i>	
Company incorporated, ...	188
<i>Oil,</i>	
Inspectors of, how appointed, ...	302
<i>Oneida County,</i>	
Taxes of 1845, ...	3
Act relative to common schools in Utica, ...	8
To elect four Members of Assembly, ...	48
Samuel Bloss authorized to erect a dock, ...	89
Indictments may be removed from recorder's court to oyer and terminer, ...	98
Act relative to road from Rome to Sacketts-Harbor, ...	250
Act to erect the town of Ava from Boonville, ...	315
Senate Districts, ...	468
<i>Oneida Reservation,</i>	
See act for the relief of John Moot, ...	134
Act for the relief of certain purchasers in 1829, ...	162, 343
<i>Oneida Second Purchase of 1829,</i>	
Act for the relief of certain purchasers, ...	162
<i>Onondaga County,</i>	
Taxes of 1845, ...	3
To elect four Members of Assembly, ...	48
Duty on salt reduced, ...	74
Act to preserve fish in Otisco lake, ...	125
Act for the education of Indian children, ...	127
Act to purchase land adjoining poor-house, ...	138
Plank road from Salina to Central Square, ...	178
Superintendents of the poor and other officers, how to be elected, ...	186
See act relative to a free bridge across Oswego river, ...	210
Office of inspector of salt abolished, ...	212
Senate districts, ...	468

	Page.
<i>Onondaga Indians,</i>	
Act to provide for the education of children of, ...	127
Duty of agent of, ...	127
<i>Onondaga Salt-Springs,</i>	
Duty on salt reduced, ...	74
Office of inspector of salt abolished, ...	212
Superintendent to act as inspector of salt, ...	212
Deputies to be appointed, ...	212
<i>Ontario County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Part of the Seneca road declared a highway, ...	457
Senate districts, ...	468
<i>Orange County,</i>	
Taxes of 1845, ...	3
Act relative to the assessors in Newburgh, ...	29
To elect three Members of Assembly, ...	48
Act concerning the district attorney of, ..	123
Act relative to the town records of Goshen, ...	366
Official acts of H. E. Conger as a justice, confirmed, ...	391
Senate districts, ...	468
<i>Order,</i>	
Act to enforce the laws and preserve order, amended, ...	68
<i>Orleans County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Supreme court commissioner to be appointed at Albion, ...	146
Senate districts, ...	468
<i>Orphan and Relief Association.</i>	
Of Hudson, incorporated, ...	94
<i>Osborn, John,</i>	
Allowance to, ...	478
<i>Ossinsing,</i>	
Election of officers for the town of, confirmed, ...	26
Name changed to Ossinng, ...	27
<i>Oswego,</i>	
Act relative to the police justice in the village of, ...	376
<i>Oswego County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Plank road from Salina to Central Square, ...	178
See free bridge across Oswego river, ...	210
Act relative to police justice in Oswego, ...	376
Act for building a town hall in Mexico, ...	377
Senate districts, ...	468

	Page.
<i>Oswego River,</i>	
Act to build a free bridge across the, ...	210
<i>Otsego County,</i>	
Taxes of 1845, ...	3
Drawing of jurors in, confirmed, ...	4
To elect three Members of Assembly, ...	48
Act relative to bridges in Butternuts, ...	314
Senate districts, ...	468
<i>Otisco Lake,</i>	
Act for the preservation of fish, ...	125
<i>Ott, James C.,</i>	
Act for the relief of, ...	298
<i>Owasco Lake,</i>	
Act for the preservation of trout in, repealed, ...	31
<i>Owego,</i>	
Act relative to school district number one, in the village of, ...	254
P.	
<i>Painted-Post Bridge Company,</i>	
Charter of, amended, ...	96
<i>Pamelia,</i>	
Act relative to bridges in the town of, ...	90
<i>Paper Writing,</i>	
See documentary evidence, ...	303
<i>Parades,</i>	
See Militia, ...	346
<i>Partition,</i>	
See act authorizing wills of real estate, &c., to be recorded, ..	204
<i>Partridges,</i>	
Act for the preservation of, in Saratoga county, ...	68
Act for the preservation of, in Columbia county, ...	88
Act to preserve in Ulster county, ...	89
<i>Paupers,</i>	
(See Poor.)	
<i>Pavilion,</i>	
Money to be raised by tax in the town of, ...	13
<i>Peck, William H.</i>	
Money to be paid to, ...	478
<i>Peekskill,</i>	
Act concerning road from Elephant Hotel to, ...	144
<i>Persia,</i>	
See Lodi Union School District, ...	254

	Page.
<i>Perryburgh,</i>	
See Lodi Union School District, ...	254
<i>Pestilential diseases,</i>	
See Quarantine, ...	395
<i>Pike,</i>	
Town of, annexed to Wyoming county, ...	53, 121
<i>Pilot System,</i>	
See concurrent resolutions concerning the, ...	484
<i>Plaintiff,</i>	
See pleading in certain cases, ...	305
<i>Plank Road,</i>	
From Salina to Central Square, Oswego, ...	178
Aurora and Buffalo, ...	215
Buffalo and Lancaster, ...	260
<i>Plattekill,</i>	
Part of Shawangunk annexed to the town of, ...	124
<i>Pleading,</i>	
Act in relation to, in certain cases, ...	305
<i>Police,</i>	
Act for the establishment of, in the city of New-York, ...	403
<i>Police Justice,</i>	
In the village of Saratoga Springs, ...	252
In the village of Oswego, ...	376
<i>Polish Slavonian Literary Association,</i>	
Incorporated, ...	33
<i>Poor,</i>	
Allegany county, ...	121
Lewis county, ...	31
Onondaga county, ...	138, 186
Temporary relief of the, ...	308
Westchester county, ...	300
Wyoming county, ...	121
<i>Pope, Horatio G.</i>	
Allowance to, ...	477
<i>Pope, Martin</i>	
Act for granting land to, ...	181
<i>Portage,</i>	
Part of the town of, annexed to Wyoming county, ...	53, 121
Another part thereof annexed to the town of Hume, ...	54
Town of, annexed to Livingston county, ...	235
<i>Port Benjamin,</i>	
Bridge to be built at, in Ulster county, ...	85

	Page.
<i>Port Kent,</i>	
Railroad and Slack-water navigation from, to Boonville, ...	442
<i>Port of New-York,</i>	
Act concerning Quarantine at, ...	395
<i>Postmaster General,</i>	
Railroad companies to contract with, to carry mails, ...	271
<i>Potter, Heman B.</i>	
Receiver of estate of Buffalo Literary and Scientific Academy, .	91
<i>Prattsburgh,</i>	
Young Men's Lyceum of the village of, ...	450
<i>Pregnancy,</i>	
Act to punish the procurement of abortion, amended, ...	19
<i>Printing,</i>	
For the Senate and Assembly and the public offices, ...	20
<i>Prison,</i>	
Trial of convicts in county and state prisons, ...	5
See Erie county work-house, sec. 11, ...	78
See act in relation to crimes punishable with death, ...	131
See act relative to militia fines, ...	147
See House of Refuge, ...	150
Association of New-York incorporated, ...	175
<i>Prison Association,</i>	
Of New-York incorporated, ...	175
<i>Protection of the Public Works,</i>	
Act further to provide for the, ...	308
<i>Public Auction,</i>	
Act in relation to duties on goods sold at, ...	65
<i>Public Lands,</i>	
Act to elect trustees of, in Eastchester, ...	208
See Gospel and School lots, ...	210
<i>Public Libraries,</i>	
See Natural History, ...	142
<i>Public Printing,</i>	
Act to provide for the, ...	20
<i>Public Works,</i>	
Act to provide for the protection of the, ...	308
<i>Putnam County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Village of Cold Spring incorporated, ...	105
Senate Districts, ...	468

Q.

Quails.

(See Game.)

Quaker Run Creek.

Declared a public highway, ... 72

Quarantine.

Act concerning the, at the port of New-York, ... 395

Queens County.

Taxes of 1845, ... 3

Act concerning highways and bridges in, amended, ... 11

To elect one Member of Assembly, ... 48

Senate districts, ... 468

Quick Child.

See abortion, ... 19

R.

Ragan, Henry,

Official acts of, confirmed, ... 378

Railroad Companies.

To contract to carry mails of the U. S., (Chap. 215, Sec. 17,) 271

Railroads.

Auburn and Rochester, ... 196

Buffalo and Hinsdale, ... 317

Buffalo and Niagara falls, ... 263

Canandaigua and Corning, ... 203

Cayuga and Susquehannah, ... 202

Charters of, act in relation to, ... 168

Elmira and Williamsport, ... 214

Hudson and Berkshire, ... 458

Hudson River, ... 272

New-York and Connecticut, ... 264

New-York and Erie, ... 243, 459

New-York and Harlem, ... 248

New-York and New-Haven, ... 231

Northern Slackwater and Railway, ... 442

Schenectady and Catskill, ... 451

Schenectady and Susquehannah, ... 435

Tonawanda, ... 388

Troy and Turnpike, ... 461

United States Mail, (See Chap. 215, Sec. 17,) 271

Rate Bills.

See dissolution of common school districts, ... 70

Receiver.

Of estate of Buffalo Literary and Scientific Academy, ... 91

Of insolvent safety-fund Banks, ... 100

Recorder's Court.

Indictments may be removed from court of, in Utica, ...	98
Fees of, in certain cases, ...	98
See bailing prisoners in Erie county, ...	149

Records.

Certain to be transcribed for Wyoming county, ...	54
Clerk of New-York may copy certain, ...	134
Act authorizing wills of real estate, &c., to be recorded, ...	204
Certain, to be transcribed for Livingston county, ...	235
See act relating to documentary evidence, ...	303
See act respecting, of the town of Goshen, ...	366

Red Book.

Money to be paid for, ...	479
-----------------------------	-----

Re-entry.

See act to abolish distress for rent, ...	369
---	-----

Regents of the University.

See act authorizing colleges, &c., to hold estate in trust, ...	76
Money to be paid to, ...	479

Relief of the Poor.

Act in relation to the, ...	308
-------------------------------	-----

Rensselaer County.

Taxes of 1845, ...	3, 18
Act in relation to county courts in, ...	11
To elect three Members of Assembly, ...	48
Act relative to mill privileges on Wynantskill, ...	75
Acts of J. Betts as a justice, confirmed, ...	391
Senate districts, ...	468

Rent.

Act to abolish distress for, ...	369
See act to equalize taxation, ...	466

Renwick, Robert,

Act for the relief of and others, ...	389
---	-----

Resolutions, Concurrent.

(See Concurrent Resolutions.)

Retailers of Intoxicating Liquors.

See act to amend excise law of 1845, ...	13
--	----

Revised Statutes.

See act relative to railroad charters, ...	168
To be furnished to the town of Goshen, ...	366
See act to abolish distress for rent, ...	369
See Quarantine laws, ...	401
One hundred copies of 3d edition to be purchased, ...	480

Rice.

Town of, erected in Cattaraugus county, ...	12
---	----

Richmond County.

Taxes of 1845,.....	3
To elect one Member of Assembly,.....	48
Act to confirm proceedings of town meeting in Southfield,....	61
Act to prevent the destruction of oysters in the waters of,....	167
Act for the better security of mechanics in,....	206
Part of first Senate district,.....	468

Roads.

In Suffolk, Queens and Kings,.....	11
Bedford road in Brooklyn,.....	30
Rock Island and De Peyster, St. Lawrence county,.....	70
Quaker Run Creek,.....	72
Northern turnpike road, part a highway,.....	97
From the Elephant Hotel in Somers to Peekskill, ...	144
In Moriah and Elizabethtown, Essex county, ...	138
From Salina to Central Square, Oswego,.....	178
Ogdensburgh and Heuvelton plank road,.....	188
In Canajoharie,.....	196
Aurora and Buffalo plank road,.....	215
From Rome to Sackets Harbor,.....	250
Buffalo and Lancaster plank road,.....	260
In Essex, Hamilton and Warren,.....	297
In Flatbush, Kings county,.....	300, 304
From Herkimer village to Middleville,.....	305
Henrietta plank road,.....	325
Saranac River, declared a highway,.....	368
Part of the Seneca road a highway,.....	457
From Ogdensburgh to Canton,.....	125

Rochester City.

University incorporated,.....	160
Act to amend the charter of,.....	236
Bridge to be built across canal at Clay street,.....	304

Rock Island and Depeyster Road.

Act relative to,.....	70
-----------------------	----

Rockland County.

Taxes of 1845,.....	3
To elect one Member of Assembly,.....	48
Act to authorize the erection of county buildings,.....	165
Senate districts, ...	468

Rogers, Howard N.

Allowance to.....	478
-------------------	-----

Rogers, Simeon,

Act for the relief of,.....	56
-----------------------------	----

Roll,

See documentary evidence,.....	303
--------------------------------	-----

Rome,

Road from, to Sackets Harbor,.....	250
------------------------------------	-----

	Page.
<i>Roof, John J.</i>	
Allowance to, ...	478
<i>Rotterdam,</i>	
Act relative to mile bridge over canal in town of, ...	129
S.	
<i>Sackets Harbor,</i>	
Sup. Court Commissioner at, to be appointed, ...	164
Road from Rome to, ...	250
<i>Safety Fund Banks,</i>	
Act to provide for paying debts of, ...	100
<i>Sag Harbor,</i>	
Village of, incorporated, ...	37, 172
<i>St. Andrew's Society of Schenectady,</i>	
Charter of, revived, ...	48
<i>St. David's Benevolent Society,</i>	
Incorporated, ...	172
<i>St. James' Methodist Church,</i>	
In Kingston, ...	340
<i>St. John, David,</i>	
Money to be paid to, ...	477, 478
<i>St. John, Mary,</i>	
Allowance to, ...	478
<i>St. John's College,</i>	
Fordham, incorporated, ...	64
<i>St. Regis Indians,</i>	
Act for the education of Indian children, ...	127
<i>St. Lawrence County,</i>	
Taxes of 1845, ...	3
To elect three Members of Assembly, ...	48
Rock Island and Depeyster road to be opened and improved, ..	70
Town House to be erected in Canton, ...	84
Road from Ogdensburg to Canton, ...	125
Money to be raised by tax in Massena, ...	131
Ogdensburg and Heuvelton plank road, ...	188
Senate Districts, ...	468
<i>Salaries,</i>	
District attorney and treasurer, Kings county, ...	27
District attorney of Schoharie county, ...	102
District attorney of Orange county, ...	123
District attorney of Allegany county, ...	140
Of superintendent of Onondaga Salt Springs and deputies, ...	212
See act in relation to fees of county treasurers, ...	214

	Page.
See police justice in Oswego village,.....	376
See Clinton state prison,.....	463
<i>Salina,</i>	
Plank road from, to Central Square,.....	178
See Onondaga Salt Springs,.....	212
<i>Salt,</i>	
Duty on, reduced,.....	74
See Onondaga Salt Springs,.....	212
<i>Saltpetre,</i>	
Act relative to and gunpowder in New-York,.....	383
<i>Salt Springs,</i>	
See Onondaga and Montezuma Salt Springs,.....	212
<i>Sanford, John,</i>	
Act for the relief of, and W. Eggleston,.....	167
<i>Saranac River,</i>	
Declared a public highway,.....	368
<i>Saratoga County,</i>	
Taxes of 1845,.....	3
To elect two Members of Assembly,.....	48
Act for the preservation of game in,.....	68
Act relative to police justice in Saratoga Springs,.....	252
Senate districts,.....	468
<i>Saratoga Springs,</i>	
Act relative to the police justice in the village of,.....	252
Charter of the village of, amended,.....	257
<i>Schenectady and Catskill Railroad,</i>	
Company incorporated,.....	451
<i>Schenectady and Susquehannah Railroad,</i>	
Company incorporated,.....	435
<i>Schenectady County,</i>	
Taxes of 1845,.....	3
Official acts of Charles Edwards confirmed,.....	10
To elect one Member of Assembly,.....	48
Act relative to bridge over canal at Rotterdam,.....	129
Senate districts,.....	468
<i>Schenectady City,</i>	
St. Andrew's Society of, charter revived,.....	48
<i>Schoharie County,</i>	
Taxes of 1845,.....	3
To elect two Members of Assembly,.....	58
Act to erect a new court house and jail in,.....	62
Towns of Wright and Esperance erected,.....	102
Act relative to the district attorney of,.....	468
Senate districts,.....	468

	Page.
<i>Schimmelpenninck, Rutger Jan.</i>	
See Nicholaas Van Staphorst, ...	364
<i>Schoolcraft, Henry R.</i>	
Money to be paid to, ...	480
<i>Schools,</i>	
District No. 8 in the town of Brutus, ...	6
In the city of Utica, ...	8
Act to amend the law in relation to common schools, ...	50
Indian children, how to be instructed, ...	50 127
Trustees of district No. 10 Little-Falls, may borrow money, ..	51
District No. 5 in Adams and Henderson, ...	52
District No. 10 in the town of Sweden, ...	56
Act relative to the dissolution of school districts, ...	70
District in Williamsville, Erie county, ...	132
Gospel and school lots, trustees of, ...	210
Town superintendent to have charge of gospel and school lots, .	210
Lodi Union school district, ...	254
District number one, village of Owego , ...	254
In the town of Flatbush, ...	301
<i>Schroeppel,</i>	
See free bridge across Oswego river, ...	210
<i>Scriba,</i>	
See police justice in Oswego village, ...	376
<i>Second Oneida Purchase,</i>	
In 1829, act for the relief of certain persons, ...	162, 343
<i>Secretary of State,</i>	
Statement of votes given for and against licences to be transmit- ted to, ...	13
Printing for his office, how to be performed, ...	20
His duty under the act to provide for the public printing, ...	20
To make contract for printing the session laws, ...	21
His duty under the act concerning the Natural History, ...	142
His duty under act to establish House of Refuge, ...	150
To furnish the town of Goshen with laws, ...	366
Money to be paid to, for census map, ...	479, 483
To purchase 100 copies third edition Revised Statutes, ...	480
To make contract for binding journals and documents, ...	486
<i>Segar, Peter,</i>	
Money to be paid to, ...	479
<i>Select Committee.</i>	
To investigation about the canals to be paid, ...	480
<i>Senate,</i>	
Districts arranged, ...	468
Allowance to chaplains of, ...	477
Allowance to deputy clerks of, ...	481

	Page.
Mileage of officers of, allowed, ...	481
Money to be paid to sergeant-at-arms of, ...	481
Concurrent resolutions, ...	483, 484, 485, 486
Contract for binding documents and journals, ...	486
<i>Senate Districts,</i>	
Act arranging, ...	468
<i>Seneca County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Senate districts, ...	468
<i>Seneca Road Company,</i>	
Authorized to abandon part of their road, ...	457
<i>Session Laws,</i>	
Contract to be made for the printing of the, ...	21
<i>Seye, Hendrick,</i>	
See Nicholaas Van Staphorst, ...	364
<i>Shamrock Benevolent Society,</i>	
Of Albany incorporated, ...	91
<i>Shawangunk,</i>	
Part of the town of, annexed to Plattekill, ...	124
<i>Sheriff,</i>	
See act in relation to crimes punishable with death, ...	131
See militia fines, ...	147
See act to equalize taxation, ...	466
<i>Ships,</i>	
See quarantine, ...	395
<i>Sing-Sing,</i>	
See state prison, ...	370
<i>Sixth Circuit,</i>	
Times of holding courts in may be changed, ...	5
<i>Slackwater Navigation,</i>	
Company incorporated, ...	442
<i>Slavonian Literary Association,</i>	
Incorporated, ...	33
<i>Smith, Augusta,</i>	
Name changed to Augusta Eliza French, ...	52
<i>Somers,</i>	
See Road from Elephant hotel to Peekskill, ...	144
Part of the town of, annexed to Newcastle, ...	313
<i>Southampton,</i>	
Act to preserve eels in the town of, ...	126

	Page.
<i>Southfield,</i>	
Proceedings of Town Meeting in, confirmed,.....	61
<i>Sparta,</i>	
Town of, divided into three towns,.....	17
Act for auditing accounts,.....	129
<i>Stafford, Spencer H.,</i>	
Money to be paid, (as attorney of Oneida Indians,).....	482
<i>State Hall, (New,)</i>	
Trustees of, may plant trees on sidewalks,.....	480
<i>State Library,</i>	
Act relative to the,.....	462
Money to be paid for Index,.....	480
Books to be loaned to Geologists, ...	483
Resolutions about carpeting rooms,.....	485
<i>State Lunatic Asylum,</i>	
Act in relation to the,.....	101
<i>State Paper,</i>	
See act to provide for the public printing,.....	20
<i>State Printer,</i>	
Office of, abolished,.....	20
<i>State Prison,</i>	
Act in relation to the trial of convicts in,.....	5
Act making an appropriation for the Mount-Pleasant,.....	370
See Clinton State-Prison, ...	463
<i>Steam Navigation Company,</i>	
Incorporated, ...	156
<i>Stephens, Harrison,</i>	
Authorized to take hold and convey real estate,.....	316
<i>Steuben County,</i>	
Taxes of 1845,.....	3
To elect three Members of Assembly,.....	48
<i>Stewart, James and others,</i>	
See second Oneida purchase of 1829,....	162
<i>Storms, Henry,</i>	
Money to be paid to, as commissary-general,.....	479
<i>Strange, Edwin B.,</i>	
Act for the relief of,.....	74
<i>Submarine Telegraph,</i>	
Company incorporated,.....	135
<i>Suffolk County,</i>	
Taxes of 1845,.....	3
Act concerning highways and bridges in, amended,.....	11
To elect two Members of Assembly,.....	48

	Page.
Act for the preservation of eels in Southampton, ...	126
Senate Districts, ...	468
<i>Suit,</i>	
See law partners of district attorneys, ...	132
See actions of ejectment, ...	171
See pleading in certain cases, ...	305
<i>Sullivan County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Bridge across Neversink river, ...	309
Senate Districts, ...	468
<i>Superintendent of Common Schools,</i>	
Duty of town superintendents in relation to Indian children, 50,	127
<i>Superintendent of Onondaga Salt Springs,</i>	
Office of inspector of salt, abolished, ...	212
Superintendent to act as inspector of salt, ...	212
To appoint deputies, &c., salaries, ...	212
<i>Superintendents of the Poor,</i>	
In Onondaga county, how to be elected, ...	186
In Westchester county, ...	300
<i>Supervisors,</i>	
Allegany county, ...	140
Delaware county, ...	68
Erie county, ...	76, 78
Franklin county, ...	87
Kings, county, ...	11, 86, 180
Lewis county, ...	31, 303
Montgomery county, ...	196
Onondaga county, ...	138, 186
Orange county, ...	123
New-York, ...	20, 134
Otsego county, ...	314
Poor, temporary relief of, ...	308
Queens county, ...	11
Relief of the poor, ...	308
Rockland county, ...	165
St. Lawrence county, ...	70, 84
Schoharie county, ...	58
Suffolk county, ...	11
Sullivan county, ...	309
Taxation, act to equalize, ...	466
Treasurer's fees or compensation, ...	214
Ulster county, ...	85, 401
<i>Supply Bill,</i>	
Act to pay certain expenses of government, ...	477

	<i>Page.</i>
<i>Supreme Court,</i>	
Commissioners residing in West part Monroe county,.....	133
Commissioner to reside at Le Roy,.....	145
Commissioner to reside at Ticonderoga,.....	146
Commissioner to reside at Albion,.....	146
Commissioner to reside at Greene,.....	147
Commissioner to reside at Sackets Harbor,.....	164
Wills proved in may be recorded,.....	204
Repairs of court room Albany, paid	479
<i>Surrogate,</i>	
Office for to be erected in Rockland county,.....	165
See act authorizing wills of real estate, &c., to be recorded, ...	204
May remove non-resident executors and administrators,.....	381
<i>Susquehanna Bridge Company,</i>	
Act to amend charter of,.....	170
<i>Surveyor-General,</i>	
His duty under the act to provide for the public printing,.....	20
(See Lands.)	
<i>Swan, Horace D.,</i>	
May keep a ferry,.....	379
<i>Sweden,</i>	
Act relative to School District No. 10, in the town of,.....	56
<i>Syracuse Society of Brotherly Love,</i>	
Incorporated, ...	410
T.	
<i>Talcott, Daniel W., junior,</i>	
Allowance to,.....	478
<i>Tavern Keepers,</i>	
See jurisdiction of justices' courts,.....	148
<i>Taverns,</i>	
See act to amend excise law of 1845, ...	13
See jurisdiction of justices' courts,.....	148
<i>Taxation,</i>	
Act to equalize, ...	466
<i>Taxes,</i>	
Albany city and county,.....	16, 53
Dissolution of common school districts,.....	70
Equalizing taxation,.....	466
Extension of time for the collection of taxes of 1845,.....	3
Hancock, Delaware county,.....	24
Italy, Yates county, ...	24
Kings county, ...	86
New-York,.....	19, 99
Pavilion, money to be raised by tax in, ...	13

	Page.
Rensselaer county, ...	18
Williamsburgh, Kings county, ...	141
<i>Taylor, J. Washington,</i>	
Money to be paid to, ...	479
<i>Tefft, Lake I.,</i>	
Money to be paid to, ...	478
<i>Telegraph,</i>	
Association incorporated, ...	474
<i>Temporary Relief of the Poor,</i>	
Act in relation to the, ...	308
<i>Thompson, Isaac and William,</i>	
Act for the relief of, and others, ...	169
<i>Thompson, James, deceased,</i>	
Act for the relief of his minor heirs, ...	25
<i>Ticonderoga,</i>	
Supreme court commissioner to be appointed at, ...	146
<i>Tillinghast, J. L.,</i>	
Money to be paid to, ...	480
<i>Tioga County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
School district number one, village of Owego, ...	254
Senate districts, ...	468
<i>Titus, Mary Agnes,</i>	
Act for the relief of, and others, ...	375
<i>Town House,</i>	
To be erected in Canton, St. Lawrence county, ...	84
To be erected in Constable, Franklin county, ...	87
Town hall to be erected in Mexico, ...	377
<i>Tompkins County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Senate districts, ...	468
<i>Tonawanda Railroad,</i>	
Act to regulate price for transporting freight on, ...	388
<i>Town Superintendents,</i>	
Of common schools, to have charge of gospel and school lots, .	210
<i>Towns,</i>	
Assessors, taxation to be equalized, ...	466
Ava, Oneida county, erected, ...	315
Clerks of, to make return of votes given for and against licenses, .	13
Cortlandville, Cortland county, lot number eight Virgil annexed to, ...	78

Eagle, Pike, and part of Portage, annexed to Wyoming co., 53,	121
Esperance, Schoharie county, erected, ...	62
Excise law of 1845, amended, ...	13
Genesee-Falls, Wyoming county, erected, ...	53
Goshen town records, ...	366
Gospel and school lots, trustees of, ...	210
Justices of the peace, official acts confirmed, ...	155
North Dansville, Livingston county, erected, ...	17
Nunda annexed to Livingston county, ...	235
Official acts of certain justices confirmed, ...	155
Ossinning, Westchester county, former name Ossinsing, ...	26
Pike and Eagle annexed to Wyoming county, ...	53
Plattekill, Ulster county, part of Shawangunk annexed to, ...	124
Portage annexed to Livingston county, ...	235
Portage, part of annexed to Wyoming county, ...	53
Rice, Cattaraugus county, erected, ...	12
Somers, part of annexed to Newcastle, ...	313
Southfield, Richmond county, town meeting, ...	61
West-Farms, Westchester county, erected, ...	373
West-Sparta, Livingston county, erected, ...	17
Wright, Schoharie county, erected, ...	62

Transcripts,

Clerk of New-York may copy certain, ...	134
See documentary evidence, ...	303

Treasurer,

His duty under the act to provide for the public printing, ...	20
See fees of county treasurers, ...	214
See act to equalize taxation, ...	466

Treaty with Great Britain,

July 1842, see apprehension of criminals, ...	161
---	-----

Trial of Convicts,

In county and state-prisons, ...	5
------------------------------------	---

Trout,

Act to preserve in Owasco lake repealed, ...	31
--	----

Troy Turnpike and Railroad,

Charter revived and amended, ...	461
------------------------------------	-----

Troy City,

Warren Free Institute of, incorporated, ...	28
Troy turnpike and railroad charter revived, ...	461

True Inspiration,

Act relative to the community of, ...	123
---	-----

Trustees of the Capitol,

To make repairs, ...	480
------------------------	-----

	Page.
<i>Trustees of Gospel and School Lots,</i>	
Act to abolish the office of, ...	210
<i>Trustee of New State Hall,</i>	
May plant trees, ...	480
<i>Trustees of School Districts,</i>	
See act to amend the law relative to common schools, ...	50
<i>Trusts,</i>	
Act to confirm certain, executed by J. Wadsworth and others, ..	50
See mill privileges on Wynant's kill, ...	75
See act authorizing colleges to hold certain, ...	76
See Community of True Inspiration, ...	123
See imprisonment of attorneys and others on execution, ...	164
<i>Turnpike Roads,</i>	
Fallsburgh and Liberty, ...	285
Gilboa and Potters-Hollow, ...	67
Great Island, ...	456
Lackawack and Neversink, ...	473
New-Windsor and Cornwall, ...	462
Northern First Company, ...	97
Seneca, ...	457
Troy and railroad, ...	461

U.

<i>Ulster County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Bridge to be built at Port Benjamin, ...	85
Act for the preservation of game in, ...	89
Part of Shawangunk annexed to Plattekill, ...	124
Bridge to be built across the Wallkill, ...	401
Bridge across the Rondout creek, ...	411
Senate Districts, ...	468
<i>Uniform Companies,</i>	
See enrolment of the militia, ...	346
<i>Union Lyceum,</i>	
Of Lyons incorporated, ...	104
<i>United States,</i>	
Act to cede the jurisdiction of certain lands to the, ...	22
See act relative to the apprehension of criminals, ...	161
Deposit Fund commissioners, Onondaga county, ...	186
Acts of Deposit Fund commissioners in Kings county, confirmed, ..	251
Contracts for mails of, (see chap. 215, sec. 17,)	271
See act relative to documentary evidence, ...	302
See resolution concerning the Pilot system, ...	484

	Page.
<i>United States Fire Insurance Company,</i>	
Act for the benefit of the, ...	338
<i>Unitarian Association,</i>	
Incorporated, ...	248
<i>University,</i>	
The Madison University incorporated, ...	32
Act authorizing literary institutions to hold estates in trust, amended, ...	76
The Rochester University incorporated, ...	160
Of Buffalo incorporated, ...	218
<i>Utica City,</i>	
Act relative to common schools in, ...	8
Indictments may be removed from Recorder's court, ...	98
Fees of Recorder of, ...	98

V.

<i>Van Benthuyzen, C. and Company,</i>	
Money to be paid to, for Red Book of 1846, ...	479
<i>Van Bramer, Ann</i>	
Money to be paid to, ...	481
<i>Van Eeghen, Pieter</i>	
Act to perpetuate the evidence of the death of, and others, ...	364
<i>Van Staphorst, Nicholas Roelof and Gabriel</i>	
Act to perpetuate the evidence of the death of, and others, ...	364
<i>Vendue,</i>	
Act in relation to duties on goods sold at, ...	65
<i>Vessels,</i>	
See Quarantine, ...	395
<i>Villages,</i>	
Cold Spring, ...	105
Dansville, ...	195
Ebenezer, ...	340
Lockport, ...	412
Oswego, ...	376
Sag-Harbor, ...	37, 172
Saratoga Springs, ...	257
Westfield, ...	264
Williamsburgh, ...	392
<i>Virgil,</i>	
Lot No. 8 in the town of, annexed to Cortlandville, ...	78
<i>Vollenhoven, Hendrick</i>	
See Nicholaas Van Staphorst and others, ...	364

W.

<i>Wadsworth, James and others,</i>	
Act to confirm certain trusts executed by, ...	50
<i>Wands, Burgess</i>	
Money to be paid to, ...	481
<i>Warren County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Act relative to highways in, ...	297
Senate Districts, ...	468
<i>Warren Free Institute,</i>	
Of the city of Troy incorporated, ...	28
<i>Washington County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Part of the Northern turnpike road a highway, ...	97
Senate Districts, ...	468
<i>Watertown,</i>	
Act relative to bridges in the town of, ...	90
<i>Wayne County,</i>	
Taxes of 1845, ...	3
To elect two Members of Assembly, ...	48
Union Lyceum of Lyons incorporated, ...	104
Senate Districts, ...	468
<i>Westchester,</i>	
Town of, divided, and Westfarms erected, ...	373
Robert R. Morris may erect a dam in, ...	461
<i>Westchester County,</i>	
Taxes of 1845, ...	3
Election of officers in Ossining confirmed, ...	26
Name of said town changed to Ossining, ...	27
To elect two Members of Assembly, ...	48
St. John's College, Fordham, incorporated, ...	64
Act concerning road from Elephant Hotel to Peekskill, ...	144
Act to elect trustees of public Lands in Eastchester, ...	208
Act in relation to the superintendents of the poor, ...	300
Part of Somers annexed to Newcastle, ...	313
Town of Westfarms erected, ...	373
Robert R. Morris may erect a dam, ...	461
Senate Districts, ...	468
<i>West Farms,</i>	
Town of, erected, ...	373
<i>Westfield,</i>	
Charter of the village of, repealed, ...	264

<i>Western New-York,</i>	
House of refuge to be established in, ...	150
<i>West Sparta,</i>	
Town of, erected, ...	17
Act for settling accounts, ...	129
<i>Wharf,</i>	
May be erected by Samuel Bloss, ...	89
<i>Wheeler, David E.</i>	
Money to be paid to, ...	479
<i>Whiting, Bowen</i>	
Money to be paid to, ...	479
<i>Williamsburgh,</i>	
Money to be raised by tax in the town of, ...	141
Bethel Baptist church in, name changed, ...	218
Kent avenue may be extended to, ...	250
Charter of the village of, amended, ...	392
<i>Williamsville,</i>	
Act relative to school district in the village of, ...	132
<i>Willink, Jan</i>	
See Nicholaas Van Staphorst, ...	364
<i>Wills of Real Estate,</i>	
Act to authorize the recording of, ...	204
See act concerning the proof of, &c., ...	381
<i>Wilson, Stephen</i>	
Money to be paid to, ...	480
<i>Wilson, Zebina, Jr.,</i>	
Act for the relief of, and others, ...	389
<i>Witnesses,</i>	
On trial of convicts in county and State prisons, ...	5
Act for the payment of, in certain cases, ...	63
<i>Wolcott, Nelson</i>	
Land to be granted to, ...	148
<i>Woodcock,</i>	
Act for the preservation of, in Saratoga county, ...	68
Act for preserving, in Columbia county, ...	88
Act for preserving, in Ulster county, ...	89
<i>Wood, Samuel S.</i>	
Allowance to, as sergeant-at-arms, ...	477
<i>Worden, Eben, and T. Briggs,</i>	
Act for the relief of, ...	73

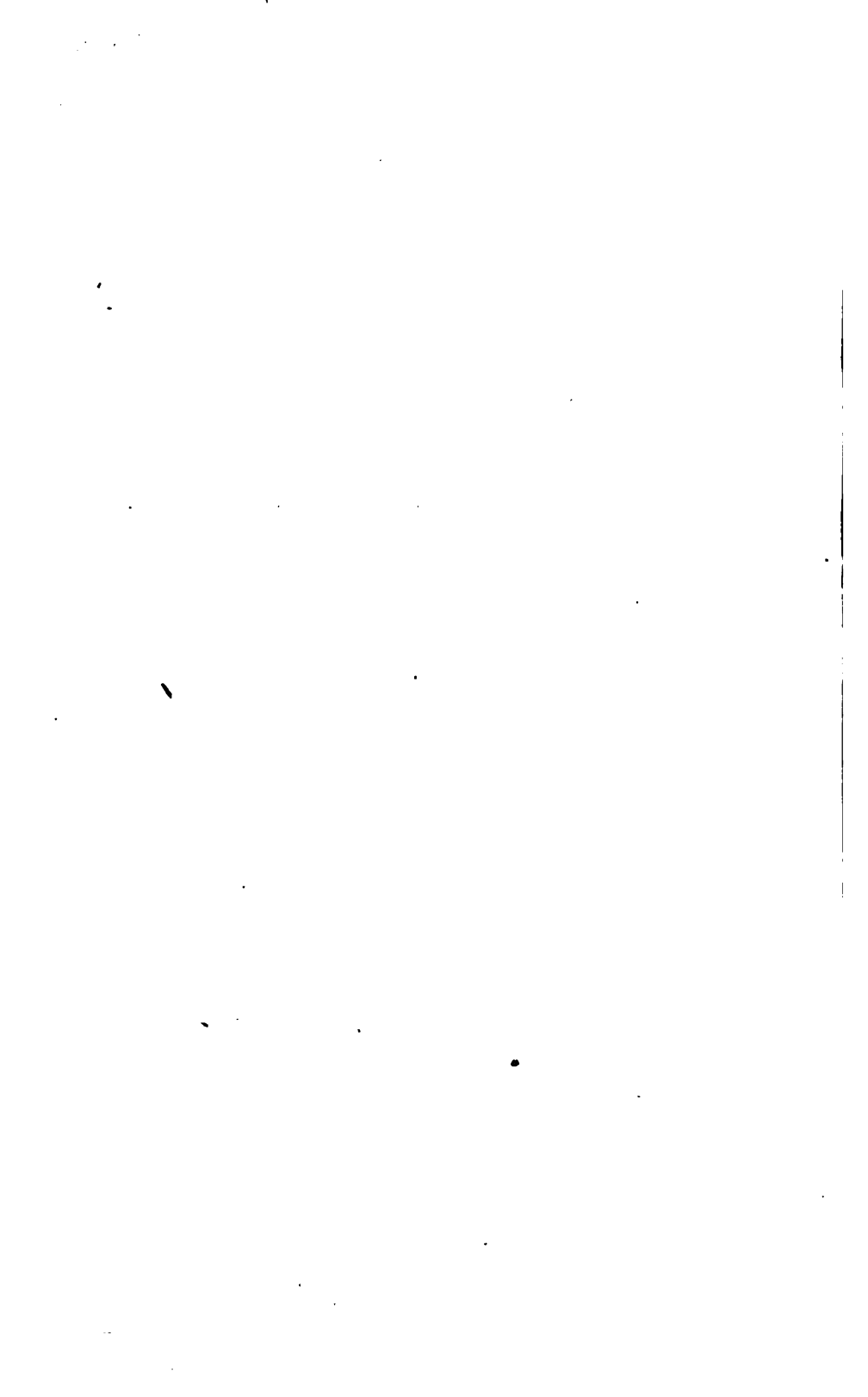
	Page.
<i>Work House,</i>	
To be erected and established in Erie county, ...	78
Certain offenders may be sent to, from counties in eighth senate district, ...	82
Prison association may establish a work house, ...	175
<i>Wright,</i>	
Town of, erected, Schoharie county, ...	62
<i>Wrongs, actions for,</i>	
See imprisonment of attorneys and others, ...	164
<i>Wyckoff, I. N.</i>	
Money to be paid to, for chaplains, ...	477
<i>Wynants Kill,</i>	
Act for the benefit of owners and occupants of mill privileges on, ...	75
<i>Wyoming County,</i>	
Taxes of 1845, ...	3
To elect one Member of Assembly, ...	48
Towns of Eagle, Pike and part of Portage annexed to, ...	53, 121
Town of Genesee Falls erected, ...	53

Y.

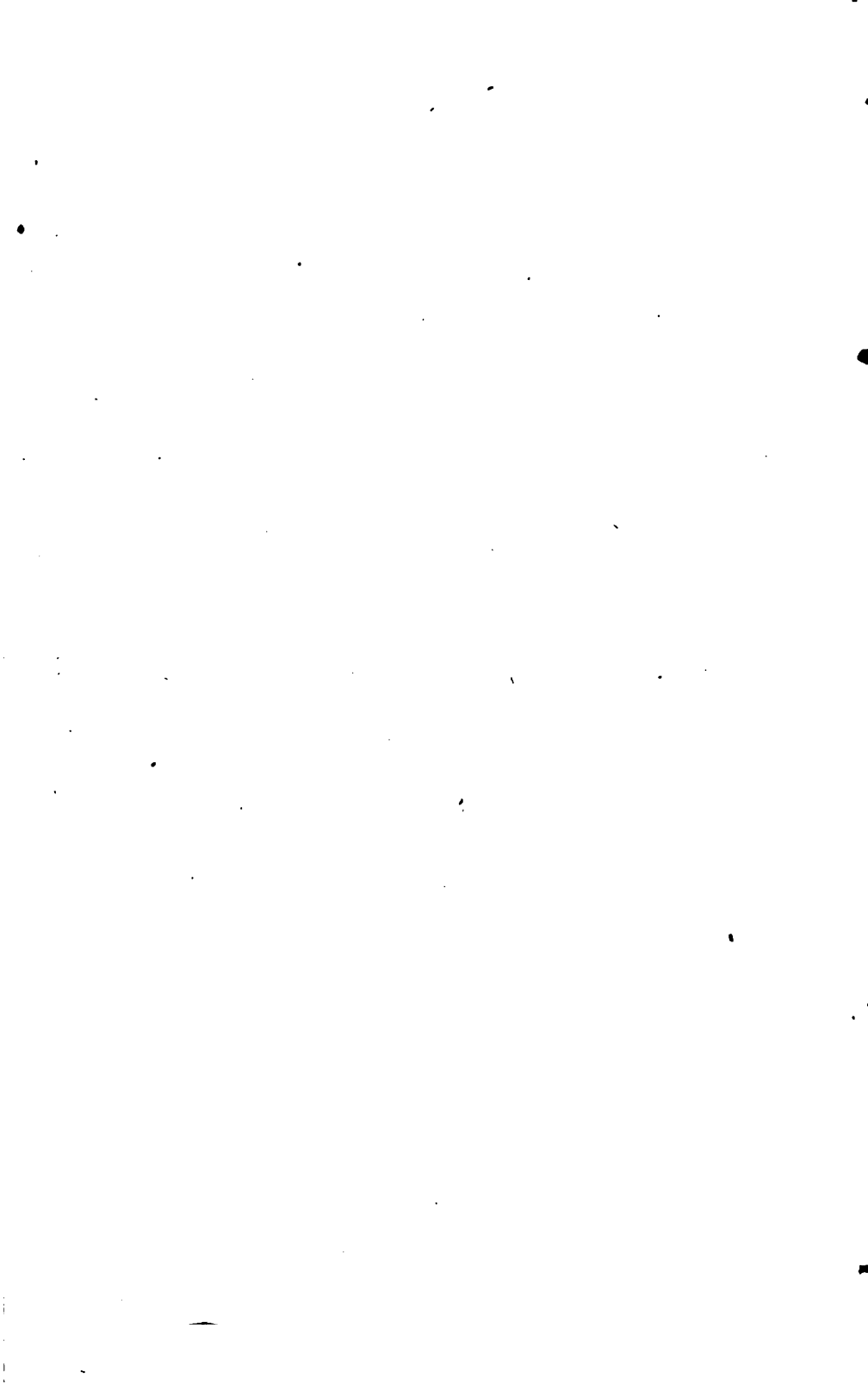
Commissioners of loans to copy certain records, ...	54
Land to be granted to Nelson Wolcott, ...	148
Senate districts, ...	468
<i>Yates County,</i>	
Taxes of 1845, ...	3
Time extended for collecting taxes in Italy, ...	24
To elect one Member of Assembly, ...	48
Senate districts, ...	468
<i>Yellow Fever,</i>	
See Quarantine, ...	395
<i>Young Men's Association,</i>	
Of the village of Fulton, incorporated, ...	470
<i>Young Men's Lyceum,</i>	
Of Prattsburgh incorporated, ...	450

Z.

<i>Zoller, Jonas</i>	
Allowance to, ...	478









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